App. F. IX-4

Previous References. 1936. (Land)

File No. 147-36

Serial Nos. 8-10

(1-4) PRESERVED

147-36-1-4

Letter References.

CS 88-37-1-7

" 88-37-8-13

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GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Three

Part B for July 1937

SUBJECT.

Copy of judgment in Mysore sessions case no 17 of 36-37 (St Plebanius Church mixing case).

WD 0418—GPB—22,500—29-8-36

MGyngor
26/7/37

66/P/37

1936-37.

Law 147-36-8

From

The Public Prosecutor,
Mysore Division,
Camp Hassan.

To

The General Secretary to the
Government of His Highness
the Maharaja of Mysore,
(Law Section),
Bangalore.

DEWAN'S OFFICE 10 JULY 1937 No. 225

GENER - SECRETARY. 3 - JULY 1937

Dated 2nd July 1937.

Encl. One.

Sir,

I have the honour to submit herewith for the information of the Government, Copy of Judgment passed on 28-6-1936 in Mysore Sessions Case No.17 of 36-37(Govt. vs. Abdulla Sab and 45 others) commonly known as the St. Philomena Church Rioting Case of 10th January 1937.

I have the honour to be,

Sir,

Your most obedient servant,

Public Prosecutor.

Subd for perusal
3/7/37

3.7.37

3.7.37

6.7

10/7

10-7-37

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13/7

FINANCIAL SECRETARIAT U.O.No.Fi.22 5 JUL 1937

OFFICE OF THE FIRST MEMBER & DIVISION 6 JUL 1937 No. 83.

In the Court of the Sessions Judge,

Mysore Division.

Mysore, dated the 28th June 1937.

Present: C. Subrahmanya Aiyar, Esq., B.A., B.L.,

Sessions Judge.

Mysore Sessions Case No.17/36-37.

GOVERNMENT. .. PROSECUTOR.

Vs.

1. Abdulla Sab.
2. Md. Khasim (a) Saba.
3. Gulam Ahmad(a) Sabu.
4. Abdul Sattar.
5. Syed Hussain.
6. Md. Seniulla.
7. Syed Ibrahim.
8. Md. Ibrahim(a) Baba.
9. Abul Hussain(a) Sabu.
10. Abdul Samad(a) Basha.
11. Abdul Rahim.
12. Md. Akbar.
13. Amirjan.
14. Khader Khan.
15. Abdul Rahiman(a) Jani.
16. Abdul Azeez.
17. Abdul Rahiman, S/o Md.Usman.
18. Abdul Rahiman, S/o Abdul Nabi.
19. Ebrahimkhan(a) Dewan.
20. Yashim Sheriff(a) Sunni.
21. Syed Ziaduddin.
22. Abdul SattarKhan(a) Sattar.
23. Hyderbeig.
24. Abdul Sattarkhan, S/o Abdul Satta
25. Abdul Azeez S/o Md.Ebrahim.
26. Abdul Khuddus. ACCUSED.
27. Ameerkan (a) Amir.
28. Ahmad Sab (a) Ahmad.
29. Azizulla Shah.
30. Dastagirsab (a) Dastu.
31. Sabjan.
32. Sattarkahn, S/o Karimsab.
33. Gulam Rasool(a) Baba.
34. Basheer Ahmad.
35. Manna Amir.
36. Abdul Wahab.
37. Abdul Karim.
38. Chotasab (a) Md.Jaffar.
39. Abdul Gaffar(a) China.
40. Budankhan (a) Sabu.
41. Jamal Sab.
42. Md.Amir.
43. Md.Abbas(a) Sabjan.
44. Md.Hussain.
45. Abdul Razaak (a) Md.Peer.
46. Abdul Sattar S/o Abdul Latiff.

JUDGMENT.

1 The City Magistrate of Mysore has committed 46 accused persons on 14th April 1937 in C.C. - No. 384/36-37 on the file of his Court to take their trial before the Court of Sessions for the offence of rioting and other connected offences.

2. The Magistrate has framed 14 charges. There is one general charge of rioting against all the accused under Section 147 I.P.C. Nine other charges of liability for offences of hurt, trespass, mischief, arson etc. as having been committed in prosecution of the common object have been framed and these are under Section 149 I.P.C. read with Sections 295, 297, 323, 333, 427, 435, 438 and 448 I.P.C. respectively. Four separate charges have been framed against four individual accused, namely, A-14, A-41, A-29 and A.9 respectively under Section 332 I.P.C. for causing hurt to particular public servants while in the discharge of their duties.

3. The facts as set out by the prosecution are briefly these: During the night of the 10th January 1937 and the early hours of the 11th a rioting of an unprecedented magnitude took place at St. Philomena's Church in Irnagere in Mysore City. A huge mob of Mussalmans consisting of several thousands, committed rioting and various acts of mischief, damage and arson and caused hurt to several officers who were engaged in dispersing the mob. Ultimately the mob had to be dispersed by the opening of fire under the orders of the City Magistrate at about 2 a.m. and the situation was brought under control. At about 8 p.m. on Sunday the 10th January 1937

a rumour appears to have spread in the Muhammadan locality of Mandi Mohalla and Irnagere that two Muhammada boys had been decoyed into the St.Phelomena's Church to be offered as sacrifice to the shrine there. Father Feuga (P.W.2) who is the Chaplain of the Church and who had arranged to leave for Bangalore by that night's trai observed a small group of 15 to 20 Muhammadans standing at the southern gate of the Church. He asked his Assis tant Father Joseph(P.W.5) to question them. When he was informed of the rumour, he assured them that it was utterly false and baseless and the small crowd appears to have dispersed. After 9 O'clock he left in his car for the Railway station and took train to Bangalore by the 10 O'clock Passenger. His Assistant (Father Joseph also went immediately afterwards by car to Krishnarajasagar with his parents, to see the illuminated fountains there. After these people left, at about 9-30 P.M. a host of Muhammadans gathered round the Church. They rushed into the compound and then into the verandah of the Quarters of Father Feuga, attacked the watchmen John and Chowri who were sleeping there, damaged the window panes and a door of that building, mutilated the consecrated images of St. Phelomena and St.Anthony in the Church compound and broke the window panes of the Church. When the report of these acts reached.Miss.-Fonseca (P.W.6) who is the Manager of the Press attache to the St. Phelomena's Church and who is living on the premis she asked Francis(P.W.7), who is the chauffeur of Fathe Feuga and who had just then returned from the Station after leaving his master there, to ring the Church bell to raise an alarm.

4 In the meanwhile at about 9-15 P.M. A.37 Abdul - Kareem had turned up at the Mandi Police Station with his younger brother Mahamad Khasim(P.W.17) a boy of about 12 years of age. He gave out a complaint to Sub Inspector Laxman who was there that he and another

boy

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Gouse Sheriff had been taken inside this Church by a Christian and asked to bend at the catacomb, that Gouse Sheriff ran away and he also ran out crying. While Sub-Inspector Leaman was recording his complaint he heard the Church bell ringing continuously. Fearing that there was something wrong he with two other constables went on bicycle to the Church in advance, directing the daffedar to turn up there with the available constables. They found a mob of 200 to 300 people and attempted to pacify them, but without success. Then Mr. Subbanna the Inspector of the Administration Branch came to the spot. Seeing that the mob was increasing and that they were committing further acts of violence by throwing stones and brickbats he went to the P.R.P. lines nearby phoned to the District Superintendent of Police and for reinforcement of police from the Mandi Station, and brought a contingent of the Reserve Police fully armed. Even these were not able to disperse the mob. In the meanwhile the mob set fire to a shed in which building materials had been placed and also the cooly sheds and to the scaffolding which had been put up for the construction work of the church which is proceeding. The fire engine was requisitioned and when it arrived, the mob attacked the fire squad and the engine with stones, brickbats and bamboos and made it impossible for the fire engine to be operated. The City Magistrate was himself hit on the face by a stone or brickbat and several other Police Officers were also injured. When the fire engine came for the third time and got into the Church compound through the southern gate the mob of several thousands rushed in a body throwing stones and brickbats. As the attitude of the mob had become very violent and it was apprehended that they would fall on the City Magistrate and the Police officers there, the City Magistrate ordered firing. The Reserve Police opened fire on the mob as a result of which three persons out of the mob fell down and some others sustained injuries. The mob dispersed immediately and the situation came under control. The

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The damage to the Church is estimated to be about Rs.12,000/-

5 The F.I.R. was sent by Inspector Subbanna at about 3 A.M. on the 11th Jan. The further investigation was taken up immediately by Mr. Shivarama Rao, Inspector of the Crime Branch in Mysore City, under the orders of the District Superintendent of Police. He examined several officers who were on the scene and held a roll call of the Police daffedars and constables who were engaged in dealing with the mob. A fairly large number of Policemen who knew some of the participators in the rioting and who could identify them gave out their names to the investigating officer. The accused were all arrested in the course of two or three days and the investigation was completed and a charge sheet was placed on the 22nd Jan.1937.

6 The committing Magistrate examined 114 witnesses and as he found that there was a prima facie case of offences under Sections 333 and 436 I.P.C. also, he committed the 46 accused in a well considered and exhaustive Resume to take their trial in the Sessions Court. In the charge sheet 47 accused had been entered. The 1st accused therein Abdul Karim who had a bullet wound died immediately after the charge sheet was placed. The 47th accused Abdulla Sab on the list in the City Magistrate's Court has been numbered as accused No.1 in this Court. the numbering of the other accused remaining the same.

7 In this Court the prosecution examined 76 witnesses and the defence examined 44 witnesses. All the accused have pleaded not guilty and most state they were not present at the scene of rioting, 25 of them have pleaded alibi.

8 As charges of mischief by fire and criminal trespass under Secs. 426, 427, 435, 436, & 448 respectively are triable in the Sessions Court by Jury, a Jury was empanelled. The other offences with which the accused have been charged under Section 147, 149, 295, 297, 323, 332 and 333 I.P.C. respectively are triable by the Court with the aid

aid of these Jurors as assessors under Section 269(3) Cr.P.C. It is found that there is no evidence of any particular individual among the accused before the Court having actually committed offences under Sections 426, 427, 435, 436 and 448 I.P.C. The charges against the accused are under Section 149 I.P.C. of liability for offences of mischief, arson and criminal trespass as having been committed in prosecution of the common object of the unlawful assembly or such as the members of an unlawful assembly knew to be likely to be committed in the prosecution of that common object. Their liability is a constructive liability under Section 149 I.P.C. It has been held in 40 Mys. H.C.R.200 that charges of liability under Sec. 149 I.P.C. for offences of mischief etc. are triable by the Sessions Court with the aid of assessors and not by a Jury. (Vide also 52 Cal.197 P.C.). Thus since all the charges resolve themselves into charges of offences under Sections 147, 149, 295, 297, 323, 332 and 333 I.P.C, there has been no necessity for a charge to the jury and the court summed up the evidence for the prosecution and the defence to the assessors and their opinion has been taken and recorded on all the charges.

9 The Church of St. Phelomena is situated in the locality known as Irnagere in the northern part of Mysore City on the Bangalore-Mysore Road, ie., the continuation of the Dodpet road towards the north which is also referred to as the Irnagere road. This Church stands on the grounds where formerly the St. Joseph's Church stood. The old Church is said to be an ancient one the foundation of which was laid in 1842 by His Highness the late Krishnaraja Wodiyar. The construction of the new Church was started about 1933 the foundation having been laid by His Highness the Maharaja. It was formally dedicated on 11-8-1936 and service is being held therein ever since. It is a Roman Catholic Church belonging to the Diocese of Mysore under His Lordship the Bishop of Mysore. It is being constructe at a cost of about 3 lakhs of rupees out of contributions

contribution from its devotees all over. The new Church has a frontage on the western as well as the southern side, besides which there is an opening of 10 to 12 feet made in the compound wall for the use of carts, conveying building materials to the Church. Inside the Church compound there are the St. Philomena Girls' School, the Catholic Press Manager's Quarters, Presbytery or the Priests' Quarters, cooly sheds and huts of watchmen. North of the Church there is a Christian Colony known as "Lourde's Nagar" which is separated from the Church by a lane. Parivars, Indian Christians, Adikarnatakas and Mahammadans form the main population of the locality round about the Church. The main Dodpet road is west of the Church. Opposite the Church beyond the main road on the western side there is a row of shops and houses and father beyond there are dwelling houses of a mixed population of Christians, Muhammadans and Hindus. In the north-west corner outside the Church compound there is a public tap to which frequent reference is made by witnesses in the evidence. At the south-west corner there is the St. Joseph's Boys' School facing east. To the south of the Church there is a road connecting Dodpet with the road from the north gate of the Government House. To the south of this road there are a petrol pump at the western end, the Amble Anniah Pandit's Dispensary and the Convent attached to the St. Phelomena Church. In the Church compound the new edifice of the St. Philomena Church is under construction and is almost nearing completion. There is a considerable amount of scaffolding of bamboos and timber put up for the construction work. Inside the Church there is a catacomb to which there is an outside entrance also and in which the image of St.Philomena is deposited. On the eastern side of the Church there are the Statues dedicated to St. Philomena, to the Lady of Lourdes and to St. Anthony. These statues are protected by thick plate glass coverings. In the Mandi Mohalla and Irnagere in which locality this Church is situated there is a very large Muslim Population.

10. There is undisputed evidence that there was a very serious riot in Mysore in the vicinity of St. Philomena's Church and its premises by a large Mussalman mob during the night of Sunday the 10th Jan. 1937 between 10 P.M. of that date and 2 a.m. of the 11th and that the mob which gradually increased to about three thousand, committed various acts of mischief by breaking the window panes, electric lights and the Statues in the premises and setting fore to the huts, the scaffolding and a carved door of the Church and caused damage which is estimated at about Rs.12,000/-. They also caused severe injuries to the Police Officers and the fire engine squad who attempted to quench the fire and also to the City Magistrate. The several incidents that are said to have happened are not denied.

11 An affair which appeared at its inception to be somewhat trivial and casual took serious proportions in the course of two or three hours with dire consequences to the rioters as well as to the Church and the persons engaged in quelling the disturbance. In the early part of that night a rumour seems to have got afloat in the Muhammadan locality of Mandi and Lashkar Mohallas including Irnagere that some two Muhammadan boys had been decoyed into the St. Philomena's Church for being offered as sacrifice to the shrine. There is nothing on record indicating what is the origin of this rumour, or whether it was engineered intentionally by any mischievous persons to incite the Mussalmans against this Roman Catholic Church and whether there were any causes of friction existing between the Mussalmans and the Roman Catholic Christians of these localities. The story is that sometime before 8 P.M. a Christian boy led into the Church premises two Muhammadan boys of the age of about 12 and asked them to look into the catacomb and went away leaving them there. The boys got afraid and ran out of the Church compound. This is the story given out by P.W.17 Muhammad Khasim who is one of the boys concerned. He came with his brother (Abdul Kareem A-37) about quarter past nine to the Mandi Police Station and gave a complaint to

to Sub Inspector Laxman. Even if this story be true, it is not clear how a rumour got about that Muhammadan boys were being taken into the Church for the purpose of sacrifice. It is evident that some mischievous brains were busy in magnifying a trivial matter. It is rather difficult to imagine that a wild and irresponsible canard of this sort could have incited some three thousand Mussalmans to assemble in the vicinity of the Church in the course of a few hours during the night unless there had been some previous causes of friction between the Mussalmans and the Christians of this locality. But there is no evidence in regard to it.

/2 Service was over at the Church that night by about 7 P.M. and the Church was closed at 8 P.M. At about 8-15 P.M. the Rev. Father Feuga (P.W.2) who is the Chaplain of the Church and his Assistant, Father Joseph (P.W.5) were walking as usual in the Shrine premises saying their prayers. They noticed a group of Muhammadans of about 10 to 20 in number near the southern gate of the Church compound. Father Feuga asked his Assistant (Father Joseph) to ascertain why they were there. It was learnt from them that one or two Muhammadan children had been taken in for being sacrificed in the Church. They assured the crowd that no such thing had taken place and that no Muhammadan child was in the Church premises and the crowd appeared to disperse. Then Father Feuga who had arranged to go to Bangalore that night left by car for the Railway Station and took train to Banglore at 10 P.M. Very soon afterwards Father Joseph (P.W.5) who had received orders of transfer left by car to Krishnaraja Sagar with his parents to see the illuminations there. These facts are spoken to by Father Feuga (P.W.2) and Father Joseph (P.W.5). This small crowd had also been observed by Miss Fonseca (P.W.6) the Manager of the Press connected with the Church and Francis (P.W.7) the driver of Father Feuga. Very shortly after Father Feuga left, some 7 or 8 Mussalmans came

came into the verandah of Father Feuga's Quarters where two watchmen John and Chowri (P.W.12 and P.W.13 respectively) were lying down. They asked John (P.W.12) where the Padiri was. When he told them that he was not there they said he was telling a lie and gave him a slap on the cheek and he ran away. Then they caught hold of Chowri (P.W.13) and belaboured him, dragged him up to the gate and pushed him out of the gate. He lay there injured. John ran and complained to Miss. Fonseca who was also living on the premises. This was at about 9-45 P.M. and at that time Francis the driver of Father Feuga returned with the car from the Railway Station after setting down his master there. When he left the car in the shed and closed it, the Mussalmans came and asked him where his master was and when they were told that he had gone to Bangalore they would not believe it and attempted to beat him. He ran away and met Miss. Fonseca who was coming that side and she asked him to ring the Church bell to raise an alarm. He rang the bell for about 5 minutes and stones were being pelted by the Mussalmans while he was doing so. John and Francis ran away to their houses. Miss. Fonseca states that she ran to the Priests' Quarters and found Chowri was being dragged by some 15 or 20 people and a big mob standing outside the gate. She says she asked Francis to give the alarm by ringing the Church bell and retired to her Quarters as it was not a safe place for her to stay in.

13 In the meanwhile at about 9-15 P.M. A-37 Abdul Kareen accompanied by his younger brother Muhammad Khasim (P.W.17) a boy of 12 years, went to the Mandi Police Station and was giving a complaint to Sub Inspector Laxman (P.W.72). The complaint is noted in the Station House Diary for that day at Ext. P.7. The substance of the complaint has already been set forth in the previous paragraph. Just then while Sub Inspector Laxman was recording the complaint he heard the Church bell pealing continuously. Feeling there was something wrong he asked Daffedar Siva Prasad to run up to the Church with the available constables and he himself went in advance with constables Rachiah and Gouse Khan on bicycles. Very soon after he went there

there Daffedar Siva Prasad came up with four constables. He found that some three or four hundred Mussalmans had assembled at the southern gate of the Church with stones, sticks and brickbats. They were saying that four of their boys had been taken into the Church and sacrificed and the Padri to whom they complained went away saying there was nothing. ~~They were saying that four of their boys had been taken into the Church and sacrificed and the Padri to whom they complained went away saying there was nothing.~~ They were shouting that they should rush into the church and break everything. They were throwing stones on the church. Sub Inspector Laxman tried to pacify them saying that he would enquire, but they did not listen and the trouble was increasing. He found Chowri was lying down there injured. He sent him to the Hospital with constable Subramanyaraj Urs. He asked constable Rachiah to inform Inspector Subbanna and also telephone to the Station to send more Policemen immediately. Inspector Subbanna arrived at the spot very soon afterwards. His advice to the mob was not heeded. The mob rushed into the compound, assaulted sub Inspector Laxman and other police-men. The mob then smashed the glass panes covering the statues of St. Philomena and St. Anthony, damaged the statue of St. Philomena and decapitated the statuette of infant Jesus fixed in the arms of St. Anthony's statue. The mob then rushed into the Chaplain's quarters, smashed the window panes, damaged the furniture in the verandah, broke the flower pots and a door and committed similar acts of mischief by throwing stones, brickbats etc. They also smashed two ornamental globe lights at the southern gate. Inspector Subbanna went to the Reserve Lines, phoned to the D.S.P. and brought from the Provincial Reserve Police Lines the Subedar, a Havildar, a Naik and nine constables fully armed to the spot. More constables came in from the Mandi Station with daffedar Seshiengar. On receipt of a phone message daffedar Mallikarjuniah of Devaraj Police Station mobilised his constables and rushed to the spot. The D.S.P. also arrived on the scene very soon afterwards. He tried

tried to pacify the mob but in vain. All these facts have been spoken to by Sub Inspector Laxman (P.W.72), Inspector Subbanna (P.W.73) and the police-men of the Provincial Reserve, and those of the Mandi Station, namely P.W.s 18 to 21 and 23 to 49. These facts are undisputed and are not questioned in the cross-examination of these witnesses.

14. Then the next stage of the disturbance in which acts of incendiarism and serious hurt to the officers were committed, started. While the D.S.P. was questioning P.W.17 Muhammad Khasim, a thatched shed on the southern side of the church in which building materials etc. had been kept was set on fire. Inspector Subbanna and constables proceeded to put out the fire, but the mob hurled stones and brickbats at them to prevent them from extinguishing the fire. Very soon afterwards a row of nine sheds on the northern side of the church in which some coolies connected with the construction of the new church and workmen were livin were set on fire. Then the scaffolding which had been put up for the building work was set on fire. ~~The~~ Very shortly afterwards the mob stacked bamboos against the big ornamental door on the western side of the church building and set fire to it. The door got charred. Attempts by the Police to put out the fire in these places were also frustrated by the mob by a fusillade of stones, brickbats and such other missiles. The Inspector sent a constable to telephone to the Railway Station for sending the fire engine and Sub Inspector Laxman was sent to fetch the City Magistrate as the violence of the mob was increasing. As the fire engine did not come Sub Inspector Ramachandran was sent to phone to the Railway Station again. While he was going to the Reserve Police Lines to get at the phone he was surrounded by 20 or 30 Mussalmans and was hit on the head and body with bamboos. He was not let off till A-23 Hyder Beig who had seen him said that he was not a Christian but a Brahmin. The wounds began to bleed and he got giddy and sat down. Then Inspector Subbanna came and sent him to the K.R.Hospital where he underwent treatment for nearly a month and a half.

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The City Magistrate Mr. Guru Dutt (P.W.8) arrived on the spot a little while after midnight. Some members of the crowd complained to him that two or three Muhammadan children had been taken inside the church for sacrifice and that one or two of them had escaped and informed their parents. He asked them to produce those children and their relations and wanted that some elderly or respectable people to come forward to speak on their behalf. A boy was produced who was crying and could not answer the City Magistrate's questions some Mussalman came forward and behaved rudely to him. No respectable or elderly people came forward. The City Magistrate's attempts to pacify the mob failed. He went with the Priest to the northern side of the church to open the door there in order to look into it, but the approach was impossible as lighted pieces of the scaffolding which was on fire began to fall and stones were also coming in from the mob. When he was at the south-western corner of the church trying to pacify the mob not to become violent he was hit on the right side of the for-head by a stone. As the wound began to bleed profusely he went in his car to the house of Mr. Thambu Chetty to get first aid and also telephone facilities. There he got his wound dressed by Dr. Balakrishna Mudaliar and he sent a written communication to the Commander of the Infantry to come with the Military. He also phoned to the Commandant of the Mysore Horse. He returned immediately afterwards to the spot. By this time the crowd had surrounded the church on all sides except the eastern side and they were yelling and throwing stones and brandishing bamboos. The fire engine came by about 12-30 or so in the night. It came along Dodpet road and after going past the church on its western side stopped near the public tap in the northwest corner outside the church compound. Station Master Srinivasa Iyengar (P.W. 55) who had also come with the fire brigade got down to find out where he could stop the fire engine to use it conveniently. The mob by this time began to attack the fire engine, clambered over the foot

foot boards and body of the engine and pelted the fire squad with stones. The Station Master got separated from the fire engine on account of the intervention of the mob and he went into the church compound. The mob was shouting as stated by Mr. Mc. Nerney, "we have set the fire; you should not put it out". The fire engine which was under the control of Mr. Mc. Nerney, (P.W.14) carriage Inspector, Mysore Railways, was taken away in the lane north of the church as operation was made impossible by the mob and it came round to the Dodpet Police Station. After being informed there that the Police force was at the church the fire engine was taken along the Dodpet road again and this time it was allowed to proceed only up to the Anniah Pandit Dispensary which is on the main road just south of the church and near which there is a petrol bunk also. The mob attacked it again shouting that the fire engine had come again. They began to throw stones and brick-bats on the fire engine. Mr. Mc Nerney who had been hit previously got another hit from a brickbat on the right side of his face and he fell off the engine. P.W. 15 Srikantiah a fi ter of the Loco Department, Mysore Railways who was also in the fire squad got hits from brickbats on his lips and the head and he lost consciousness for a short time. Both these people were sent to the Hospital for treatment. While the mob was attacking the fire engine near the petrol bunk a contingent of constables rushed to the spot from Devaraj Police Station. They tried to disperse the crowd and to make way for the fire engine but many of them also got hits and it was not possible to clear the way for the fire engine. Consequently it had to go back to the Dodpet Police Station. A little while afterwards Mr. Murthy Sub Assistant Loco Superintendent (P.W.16) who is the officer having charge over the fire engine came up to Dodpet Police Station, as he got a telephone message. He found the fire engine there and took charge of it. In the meantime the Municipal President and four Reserve constables came up there. Mr. Murthy proceeded with the fire engine along Government House side and came from the east-

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eastern side to the south gate of the church and got in. As soon as the mob saw the fire engine they rushed yelling and shouting to the south gate of the church to prevent the fire engine from getting in and began to throw stones and brick bats indiscriminately on the Police and other officers. All these facts are spoken to by the City Magistrate, the Police officers and constables and other officers of the fire squad. The burning of the huts is spoken to by the occupants thereof and also by all the police officers who had come to the spot earlier. Mr. Van Ingen (P.W.4) and Mr. Morris (P.W.3) who had gone to Belgola for crocodile shooting and who were returning at about 1 A.M. in the morning state that they saw the conflagration in the direction of the church while they were at the outskirts of the City and they came up near the church. They were set upon by the crowd which attempted to attack their car and they had to back the car and get away along the Transformer House.

16 By this time the mob had increased to a strength of three thousand or thereabouts. They were throwing stones and brick bats indiscriminately on all the officers and the police and were also hitting some with bamboos. They had set fire to the huts, scaffolding and the church door. They had broken the window glasses and dome-lights, they were attacking the fire engine and made it impossible for the fire engine to [redacted]-operate. When the fire engine came on the third time to the southern gate and went in, the entire mob made a concerted rush shouting and yelling and throwing stones and brickbats. A large number of Police officers had already been injured and the City Magistrate himself had received a serious cut on his face. The crowd rushed from all sides and they were shouting " Maro ! Maro ! " The situation became uncontrollable. As they rushed through the southern gate and made for the City Magistrate, the Police and other officers who were there, in a very aggressive attitude, the City Magistrate ordered the Provincial Reserve Police to open fire. Warnings were shouted out that fire would be opened if the mob proceeded further but they were not heeded and the crowd made a determined rush at

at these people. As there was imminent danger to the lives of these officers the Reserve Police opened fire. Some 32 rounds appear to have been fired. A few people fell and the crowd dispersed. In a short time the streets were deserted. Three Muhammadans fell on the spot in different places, two of these had died and one who had received fatal injuries was removed to the K.R. Hospital where he died very shortly afterwards. These facts are spoken to in detail by Inspector Subbanna (P.W.73), Sub Inspector Laxman (P.W.72) and are corroborated by the P.R.P. men and Mundi Police constables (P.W.18 to 21 and 23 to 49). The City Magistrate (P.W.8) gives a full account of the incidents from the time he arrived on the spot about midnight till the dispersal of the mob by firing. Veternary Inspector Mannas (P.W.56) whose house is opposite the church and faces east and who was observing the incidents from his upstairs mentions the acts committed by the mob. The fire ~~spread~~ squad men (P.W.14 to 16 and ~~EE~~ 55), and the Devaraj Station policemen (P.W.50 to 54, 58 to 63, 66 to 75) and Traffic Daffedar Netcher (P.W.68) speak to the later incidents. There is no reason to disbelieve all this large volume of evidence. In fact, the events of that night are not seriously disputed by the defence.

17. The several acts committed by the mob during the disturbance resulted in considerable injury to property. Damage was caused by throwing stones and brickbats and also by direct force to the church, chaplain's quarters, the statues and the electric dome-lights. Damage also caused by fire to the huts, the scaffolding and the church building proper and also to the stores and building materials kept in one of the huts. The loss to the church authorities is estimated by Father Feuga to amout to about Rs.12,000/-. These acts fall under the category of mischief by fire, house trespass etc. Besides these acts the mob caused hurt to several officers and men by throwing stones and brickbats and the use of bamboo sticks. The City Magistrate received a deep gash on the right frontal eminence which necessitated treatment at the Hospital for a number of days and which has left a scar on his face. Sub Inspector Ramachandran (P.W.32) received hits on his head and face which necessitated treat-

treatment for over a month and a half and have left scars. Mr. Mc Nerney (P.W.14) and Srikantiah (P.W.15) of the fire engine squad, Inspector Subbanna (P.W.73), Sub Inspector Laxman (P.W.72), Subedar Sanaulla (P.W.18), Naik Syed Hamid (.P.W.19), Daffedar Mallikarjuniah (P.W.50) and constables Brookes (P.W.52), Krishnasingh(P.W.35), Subramanyaraj Urs (P.W.29), Ahmad Khan (P.W.62) Sivananjiah (P.W.44), Siddiah P.W.38), Anthony (P.W.47), Madiah (P.W.34), Changalraj (P.W.53) and Aralappa (PW.66) besides Chowri (P.W.13) who was the first to be belaboured, received injuries more or less severe from the acts of the mob. These injuries are spoken to by the Sub Assistant Surgeon Subrahanya Iyor (P.W.9) who attended on these persons in the Hospital. Exts. P3 series are the entries in the Accident Register and Ex.P.4 series are the certificates issued for the injuries. These acts of the mob fall under the categories of causing hurt to deter public servants from doing their duty, and grievous hurt.

/8 Before proceeding to a consideration of the offences that have been committed during the course of the disturbance it is necessary to examine the attitude and the object of the mob. To start with between 8 and 9 P.M. when Father Feuga was still in the Church, it was only a handful of Mussalmans that assembled there and their object was then to find out the truth of the rumour that some Mussalman boys had been taken into the Church for purposes of sacrifice. Father Feuga and Father Joseph state that they assured them that it was not true and the mob appeared to disperse. Some 40 or 50 Mussalmans appear to have come to the spot very shortly at about half past nine after Father Feuga left for the Railway Station. They do not appear to have kept within their bounds. They entered the Church premises and the verandah of Father Feuga, assaulted the watchmen John and Chowri who were lying there and caused severe injuries to Chowri, dragged him to the gate and threw him out. They attempted to attack Francis the driver of Father Feuga, but, he ran away. When Francis began to ring the church bell

bell to raise an alarm according to the instructiobs of Miss. Fonseca, the Mussalman crowd begun to pelt stones. These acts themselves show that it was not a peaceful crowd bu an unlaw-ful assembly. By the time Sub Inspector Laxman (P.W.72) came to the Church a little prior to 10 O'clockthe crowd had increased to 300 or 400 Mussalmans. They had stones, brickbats and sticks and they wer shouting that they should rush into the church compound and broke the window panes of the church and the Chaplain's quarters, the statues and the dome-lights. Though all the police officers including the D.S.P. who arrived later tried to pacify the mob and assured them that they would enquire into the matter, the mob did not listen to their workds. Even when the City Magistrate came he attempted to pacify them and asked some of their leaders to come forward saying that he would show them inside the church. He even attempted to get the key of the church. But the mob was not satisfied. They would not disperse. On the other hand the mob was gradually gaining force and when firing was ordered it was estimated to have amount-ed to about three thousand. The violence of the mob instead of abating, increased. It is clear therefore that the common object of the mob was to trespass into the church premises and cause damage to the church and its properties. This is evident from their acts and also vrom the shouting and the words of in-citement uttered by the ring-leaders. They set fire to the sheds and scaffolding and would not allow the fire to be quench-ed. They attacked the fire engine which came to quench the fire. They also attacked the police officers who attempted to quench the fire and prevent the mob from damaging property. There is ample evidence that there was continuous exchange of ideas among the members of the mob by rallying cries, directions to rush in, rows of incitement to commit damage, beat the police and drive out the fire engine. Considering the methods adopted by the crowd almost from the very commencement and the shoutings and incitement, it is difficult to say that they came there with the peaceful object of ascertaining the truth of the rumour that boys had been taken in for the purpose of sacrifice.

sacrifice. Even granting that they came there with that peaceful object it yielded place during the course of half an hour to the common object of causing damage to church property defiling and damaging of statues, trespass and such other unlawful purposes.

19 It has been stated over and over by the learned counsel for the defence that this unfortunate affair would not have taken such serious proportions resulting in lo s of life and damage to property but for the tactlessness of the police in in not allowing the mob inside the church premises to satisfy themselves as to whether Mussalman boys had been decoyed there in. It is contended that the crowd ought to have been humoured and their damand to get in should have been allowed. Every one of the police officers including the D.S.P. has tried to pacify the crowd by promising to enquire into the matter. Even after the City Magistrate came he wanted some of the leaders to come forward so that they might be taken in and shown. But on the other hand the mob was rude to him and hit him on the face. The chaplain and his assistant had gone away and it was not possible for the Police to open the church doors. The police would not have been justified in opening the church doors merely because the mob demanded it. In fact the mob had not any right to get into the church premises even if there was a canard going about that boys had been taken in. The method that should have been resorted to by these people is to lodge a complaint to the Police and move them to take immediate action and not to take the law into their own hands and rush into the church compound. Getting into the church compound without the permission of the authorities even though it be to satisfy themselves about the truth or otherwise of a canard is itself criminal trespass. It cannot be conceded that their object was lawful if they attempted to go into the church without permission. If the proposition that when a mob come to the gates of a building and make a demand that they should be satisfied by letting them in as otherwise they might take the law into their own

own hands and commit violence, no man's property is safe. At that rate a dozen rowdies might come up to the house of any man and demand to be let in for satisfying themselves about the truth of some rumour false or invented for the occasion, threatening violence in the alternative. It is clear that the crowd which assembled at the church after half past nine did not assemble for any peaceful purpose. They seem to have come there with the evident object of damaging and defiling church property as they had got into a delusion or obsession by the canard that Muahmmadan boys had been taken into the church and sacrificed. They had already ~~xxx~~ committed acts of violence even before the police came on the scene. They had belaboured Chowri the watchman and assaulted John. They would not believe these people and Francis when they told them that Father Feuga had left for Bangalore. It would have been the height of folly on the part of the police to have let loose into the church the crowd of 3 or 4 hundred Mussalmans even taking into consideration the very early stages. It is difficult to imagine what they might not have done in the church. There would have been more havoc and damage at their disappointment in not finding the Muhammadan children whom they expected to find in the church. There is no knowing that their doubts would have been satisfied at all. They might still suspect that the children have been sacrificed and the dead bodies taken away or they have been decoyed elsewhere. They might demand to go round the entire premises causing damage everywhere. They had worked themselves into a high ~~pitch~~ pitch and it would have been disastrous to have allowed the entire mob into the church, though it is true the disaster could not be prevented as enormous numbers collected subsequently to do violence. Words of advice from the police officers, the D.S.P., the City Magistrate and the Municipal President who had also ~~xxxx~~ come then fell on deaf ears. It is possible that if some of the leaders of the Mussalmans

Musalmans had come out and given the mob good counsel, they might have listened, but somehow none such came out and not contagion and influence had fully play.

20. It is not correct to say that the mob committed these acts of violence because the police prevented them from going in. They had in fact got into the church compound even before the police came and large numbers of them rushed in inspite of the police and damaged the windows and statues. These acts show beyond doubt that the object of the mob was not to get in and ascertain the truth or otherwise of the rumour that had got afloat, but it was to damage and defile church property. This is evident from the cries of incitement of the mob to rush in and break things.

21 Whatever their initial motive may have been, it is clear and that at any rate after 10 p.m. the mob became an unlawful assembly and grew riotous by their acts. The police were not wrong in preventing the mob from entering the church premises even if the police had the ability to control the mob at that stage and there is absolutely no justification for the mob to rushinto the church. Even after they got into the church there was much less justification for them to smash everything and cause hurt to the officers who tried to prevent the damage. Some out of the mob set fire to the huts, scaffolding etc. and when the fire engine and police officers attempted to extinguish the fire, their attempts were deliberately fustrated by the mob by pelting them with stones, brickbats and bamboos. Their intention clearly was to see that the Church was damaged by fire. These acts undoubtedly constitute rioting. According to the explanation to Section 141 I.P.C. an assembly though not nulawful when it first assembled may subsequently become an unlawful assembly. Even when they saw that acts of violence were being committed and there was serious rioting and some members were indulging in incendiarism and violence to police officers and men, the rest continued to stay in the mob and furthered the common object.

object. They expressed approval by shouts and also overt acts. From about 9-45 P.M. when the crowd was dispersed by resorting to firing, the crowd went on gaining force and acts of violence also increased. It is not denied by the defence that these acts constitute rioting and the main plank of the argument on behalf of the defence is that the accused before court are not the culprits

22 It was argued by the defence counsel that the mob behaved in this manner on account of the scare of kidnapping children which had prevailed in Bangloro shortly prior to this occurrence that the mob had every justification in demanding to be satisfied that none of their children were taken in for sacrifice. This is a matter, if at all, for consideration only in regard to the quantum of sentence to be imposed on the culprits and not a justification for committing offences. Even granting that their motive at the commencement was lawful, the means adopted were entirely unlawful. During the course of four hours the size of the mob increased to some thousands and the acts of vilence and mischief increased also in quality and magnitude. The setting of fire to the sheds and the scaffolding the preventing of the police officers and the fire engine from quenching the fire and the hurt caused to the several officers cannot be justified by the defence on any ground and it cannot be denied that these are offences. At the first stage the mob merely indulged in acts of mischief by smashing window panes and electric lights by throwing stones, and damaging statues, and in assaults on police officers. Very soon afterwards a shed which containedbuilding mater ale on the southern side was set on fire. Then a row of sheds on the northern side was set on fire. The scaffolding was also sent on fire. Bamboos were stacked against the ornamental door of the church and this was also set on fire. Incendiarism became rampant and the mob frustrated the efforts of the authorities concerned in extinguishing the fire.

23 During the cross-examination of some of the prosecution

prosecution witnesses it was suggested by the learned counsel for the defence that the sheds might have accidentally caught fire as the coolies were cooking in them. An instance of an accidental fire in these sheds a year back was also cited in support. Apart from the evidence of the prosecution witnesses, the circumstances clearly show that the fire was not accidental in this case but an act of arson. The southern shed caught fire first. Only materials such as timber, mouldings etc. had been kept therein and there was no cooking in it. Then the row of sheds on the northern side was on fire. It cannot be said that the fire on the southern side did not communicated to the northern row of sheds since the two sets are separated by the huge structure of the church. The scaffolding was set on fire. There is evidence that the mob heaped bamboos against the ornamental western door of the church and set fire to it. Apart from the evidence of Inspector Subbanna (P.W.53) and other police witnesses, there is the evidence of P.W.56 Mannas Veterinary Inspector of the Municipality who lives almost opposite the church in Dodpet road in regard to this. He says he was standing in the balcony of his house and seeing the incidents. He states he saw a mob of Mussalmans bringing out bamboos which were stacked near the church compound, breaking them and stacking them against the western door of the church and that they set fire to it. He was an independent observer and there is no reason to discredit his testimony. When the police attempted to extinguish the fire the mob pelted them with stones and turned them back. The mob again attacked the fire engine and prevented it from operating. Mr. Mc Nerney(P.W. 14) of the fire engine squad who is a Carriage Inspector in the Mysore Railways states that when the fire engine arrived near the tap, the mob began to attack it shouting " we have set the fire, you should not put it out ". Mr. Mc.Nerney is a responsible Railway official and is neither a devotee of this Church nor amenable to police influence. There is no motive for him to exaggerate things and there is absolutely

absolutely no reason to disbelieve him. The cries of the mob and their acts preventing the quenching of the fire indicate clearly that they had intentionally set the fire for damaging church property.

24 All these circumstances establish that the attitude of the mob was to cause damage to the church and to attack whatever Christian they came across. In the early stages they attacked John and Chowri and attempted to beat Francis the driver. Even Sub Inspector Ramachandran was belabcured under the belief that he was a Christian and was let off only when they realised that he was a Brahmin. Their frenzy such that they attempted to set upon Mr. Van Ingen and Mr. Morris who arrived near the church in their car a little after 1 A.M.. The common object of this assembly of Mussalmans at any rate after 10 P.M. whatever it might have been previously, was to cause damage to the church and its annexures, and defile the shrines therein and to overawe by criminal force the public servants who were attempting to prevent the damage and deter them from doing their duty. Thus the assembly was clearly an unlawful assembly within the definition of Section 141 I.P.C. As force and violence were used by this assembly in prosecution of their common object, the members of this assembly are guilty of the offence of rioting under Section 146 I.P.C.

25 I shall next proceed to consider the several acts that are said to have been committed by the accused which would constitute offences. As observed above, since the assembly was an unlawful one and as violence was used in prosecution of their common object, such of the accused as are proved to have been members of this assembly would be guilty of the offence of rioting under Section 147 I.P.C. This is a general charge and constitutes Charge No.I as framed by the Magistrate. From 10 P.M. till the dispersal of the crowd by firing at about 2 A.M., the disturbance and acts of violence continued. Consequently whosoever among the accused who was present in this unlawful Assembly at any stage during this period and participated in their proceedings would be guilty of rioting. It cannot be said at any rate, subsequent to the initial stages that

that persons who were in it were mere sightseers or were sta ing there casually. When the mob had rushed into the Church compound and were throwing missiles indiscriminately, breaking statues and flower pots, hitting the police and other officers, any person who continued to be in the assembly there after would be a member of an unlawful assembly. Under Section 142 I.P.C. whoever being aware of facts which render an assembly an unlawful assembly, intentionally continues in it is said to be a member of an unlawful assembly. When violence, michief and incendiarism had started on the part of the mob it is clear that any person even though he had come into the mob casually must be aware of the fact that the assembly had become an unlawful assembly. If he continued therein subsequently intentionally, he would be a member of an unlawful assembly. It has no doubt to be proved that he intentionally continued to stay in the assembly, i.e., that he took part in the proceedings thereof. A mere unintentional presence such as that of a curious spectator or a casual passer by would not amount to culpability. Considering that the rioting occurred in a crowded locality like Irnagere, it is not sufficient to show that a particular accused was in the streets at the time the riot occurred or was mixed up in the crowd. To show that the persons in the crowd were themselves among the rioters it is necessary that there should be evidence of something more than their mere presence in the crowd something to show that they were members of the unlawful assembly either in their conduct, acts or their shouts, such as throwing of stones or brickbats, rushing into the church premises and uttering cries of incitement to the mob or rallying cries or slogans.

26. The committing Magistrate has framed nine charges of constructive liability under Section 149 I.P.C. for various offences in regard to mischief, mischief by fire, hurt etc. These are charges II to VIII, XIII and XIV. Charge No.VII relates to the hurt caused to Chowri (P.W.13) by the mob and all the accused have been charged under Section 323 read with Sec.149 I.P.C. It is to be observed that there is absolutely no evidence on record

record as to who were the members of the as embly when Chowri was beaten. The first police officer who came on the scene is Sub Inspector Laxman and he found Chowri lying injured at the gate. He cannot therefore be in a position to state who all constituted the mob at the time Chowri was injured, nor are the constables who came subsequently in a better position. The witnesses who refer to the beating of Chowri are: Chowri himself (P.W.13), John (P.W.12), Francis (P.W.7) and Miss Fonseca (P.W.6). All that Chowri could state is that 20 or 30 Mussalmans came into the church, caught hold of him, beat him and dragged him to the gate. A little later the police came and sent him to the Hospital. He admits he is not able to identify the Mussalmans who beat him. John who was lying down with Chowri in the verandah ran away before the Mussalmans began to beat Chowri as they first tackled with John. Francis states that some 20 or 30 Mussalmans were outside the gate when he returned with the car from the Railway Station and that as they set upon him he ran away. Miss. Fonseca states that some 15 or 20 Muhammadans were beating and dragging Chowri and that there was a mob standing outside the gate. She also does not identify any in the mob. According to the evidence the course of events was that the crowd which was 50 or 60 at first rose to a few hundreds and then to four to five hundred when Sub Inspector Laxman came and to thousands by 1 or 2 a.m. It is possible that the accused came on the scene subsequently. In the absence of proof that the accused were present in the crowd at the time Chowri was beaten they have to be acquitted of Charge No.VII.

27 The next set of acts committed by the mob are the rushing into the church premises, breaking the window panes of the church and Chaplain's quarters, breaking of the statues and the electric globe lights, breaking of flower pots and a door (M.O.12) of the Chaplain's quarters.. These acts of the mob are spoken to by Sub Inspector Laxman and the Mandi Police Station constables who had come on the scene and Inspector Subbanna. Father Feuga

Feuga who arrived in Mysore on the next day speaks to the damage caused and has also exhibited photographs taken by him (Exts. P.2 series) to evidence the damage caused. Since damage was caused to the church windows, and statues which are held sacred by the Christians were damaged and defiled, the offenders would be liable for an offence under Section 295 I.P.C. They would also be liable for trespass into the church which is an offence punishable under Section 297 I.P.C. It is evident that the offenders must have had knowledge that these acts would be considered by the Christians as an insult to their religion and that the feelings of the Christians would be wounded. These acts would also constitute mischief under Section 427 I.P.C. and criminal trespass into the house of Father Feuga under Section 448 I.P.C. Since these offences have been committed by members of the mob in prosecution of the common object of the assembly viz to cause damage to the church and its properties, they would all be guilty of the commission of the particular offences according to Section 149 I.P.C. These constitute Charges II, IV, V and XIV which go together in respect of this set of acts committed by the mob.

28 The third set of acts committed by the mob are the setting fire to the sheds, and to the scaffolding and destroying thereby the materials and the timber in the stores shed. Connected with these acts is the act of the mob in stacking bamboos against the western door of the church and setting fire to it. I have already observed that there is good reason to believe that fire must have been set by the mob and that it was not a case of accidental fire. These acts are spoken to by the police officers, P.W.56 Mannas and other persons who saw the conflagration. The burning of the sheds would come under Section 435 I.P.C. These constitute Charges under Head III and VI. Any of the accused who took part in the proceedings of that portion of the mob at the stage mischief by fire was caused would all be liable for offences under Sections 435 and 436 I.P.C. as the members

members of this portion of the mob must have known that these offences are likely to be committed. Unless there is some evidence that they were found at the particular place where the fire was ~~sent~~ set, it cannot be held that they are liable for the offence of mischief by fire. If it is merely proved that an accused was a member of the mob in some portion or other, he cannot be connected with the offence of mischief by fire, since he could not have necessarily known that the sheds or the church would be set on fire by other members of the mob. It was not the common object of the mob to set fire to the church. As violence went on increasing a portion of the mob set fire and this cannot have been within the knowledge of the crowds in other portions as an offence that was likely to be committed in prosecution of the common object.

29 Next come the acts of the mob in causing hurt to the police officers and the City Magistrate. From the commencement to the end the mob was throwing stones at the police officers and in some cases they were hitting directly. They caused injury to some officers in the first stage when they rushed into the church compound throwing stones and damaging windows etc. In the second stage they pelted stones at the police officers and the members of the fire squad in the Fire Engine when they attempted to quench the fire. In the third stage when the fire engine came into the church the mob rushed in throwing stones and injuring the officers. The members of the mob must have known that by throwing stones and brickbats they would cause hurt. Secondly though a particular accused may not have caused the injury himself, he would still be liable under Section 149 I.P.C. for the hurt caused. It is evident that the hurt was caused to police officers and the Fire Squad who are public servants with intent to prevent them from discharging their duty in quenching the fire. The members of the mob would therefore be liable for offences under Sections 332. This constitute Charge VIII.

The

30. The charge of grievous hurt under Section 333 I.P.C. arises in respect of the hurt caused to Mr. Guru Dutt the City Magistrate and to Sub Inspector Ramachandran. As regards Mr. Guru Dutt, an injury was caused on his face by a stone which was pelted by somebody in the mob. The wound it is stated was sutured and took 11 days to heal. There is no evidence indicating that this hurt caused him severe bodily pain for 20 days or that he was unable to follow his ordinary pursuits - for 20 days. A scar is left on the face; still it cannot be considered to be permanent disfiguration of the head or face. The evidence therefore does not establish that grievous hurt was caused to Mr. Guru Dutt. What has been caused amounts merely to hurt and the offence reduces itself into one under Section 332 I.P.C. as he is a public Servant and not 333 I.P.C. The injury caused to the Sub Inspector no doubt amounts to grievous hurt, as he had to undergo treatment for 1½ months. But there is no evidence that any of the accused were in that portion of the crowd that surrounded him and caused the injuries. He has identified some of the accused but he admits that more of the accused identified by him hit him and he does not know his assailants. He also states that the accused identified by him were in that portion of the crowd that were throwing stones at the church and were near the sheds that were set fire to. Consequently they could not have been in the crowd that surrounded him and there is no evidence that any other accused were in that crowd. Thus charge XIII relating to grievous hurt reduces itself into one of hurt similar to charge VIII.

31. Then there are four charges against individual accused. Charge No.IX is against A-14 Khader Khan under Section 332 I.P.C. for causing hurt to constable Anthony. Charge X is against A-41 Jamal Sab under Section 332 I.P.C. for causing hurt to constable Subrahmanyaraj Urs. Charge XI is against A-29 Azeezulla Sha under Section 332 I.P.C. for causing hurt to constables Subramanyaraj Urs and Siddiah and charge

charge XII is against A-9 Abdul Hussain alias Saba under Section 332 I.P.C. for causing hurt to Sub Inspector Laxman. It has to be observed that Sub Inspector Laxman who wrote the Station House Diary of the 11th Jan regarding the rioting incident (Ex.D.12-a), ~~he~~ has not entered the name of A-9 Abul Hussain as one of the accused. If his identification and recollection were that Abul Hussain hit him, this name would have been the first name entered by Sub Inspector Laxman in the Diary. While some two others' names are mentioned in this first record of the rioting by him, the name of accused 9 is omitted. This circumstance detracts considerably from the statement of Sub Inspector Laxman that A9 hit him. Sub Inspector Laxman was working under great strain that night. He was moving about from place to place and kept very busy. It is likely that this is a case of mistaken identity. He was caught by 3 or 4 and he extricated himself. Further even while naming A9 in court he hesitated slightly in regard to A9's name when he went round the accused in the court to identify them and then named him. Since there is no corroboration that A9 hit him, I consider it safe to give the benefit of doubt to A9 and acquit him of Charge XII. As regards A14, A49 and A29 regarding specific offences of hurt said to have been actually caused by them, there is only the evidence of the person said to have been hit. There is no corroborative evidence. When stones and brickbats were coming from all sides and there was utter confusion, it could hardly have been possible for the person hit, to have noted from whose hand the missile came. Consequently A14, A41 and A29 have to be given the benefit of doubt in respect of Charges IX, X and XI against them respectively and have to be acquitted of these charges. Thus there remain for consideration against the accused only charges I to VI, VIII, XIII and XIV.

32. In determining what charges a particular accused is liable for, we have to keep in mind the portion of the mob

mob and the stage at which he was found in the mob according to the evidence. The area of the disturbance may be roughly stated to be a furlong by a furlong. The disturbance went on for nearly four hours. Several incidents took place during that time. It cannot be said that an accused who was found in the earlier stages when the statues etc., were damaged was present when the fire was set on when the fire-engine was obstructed. It is not also reasonable to hold an accused who was found according to the evidence at the petrol bunk in the south west corner culpable under Section 149 I.P.C. for the charge of setting fire to the sheds on the northern side, as it cannot be said that the accused had knowledge that mischief by fire was likely to be committed in prosecution of the common object.

33. From the general trend of the defence it is seen that it is not seriously disputed that the mob committed during the rioting the offences comprised in the charges as framed. The defence of the accused is that they were not present at the rioting. The most important question for consideration in this case therefore is whether the accused before court took part in the rioting or which of them, if any, took part and to what extent. 76 witnesses have been examined by the prosecution. Out of these 20 witnesses speak to the incidents of that night generally without identifying any particular accused. The remaining 56 witnesses identify one or more of the accused as participating in the rioting. In the nature of the circumstances the majority of the identifying witnesses are Policemen who were engaged in dispersing the mob. The nature of the identification in this case is of three kinds. Firsly there are witnesses who have known some of the accused previously as also their names. The witnesses have named the accused that they saw in the mob to the Investigating Officer at the roll call which he held soon after the riot at about 7 o' clock on the 11th January morning.

Secondly there are witnesses who have known and are acquainted with the accused and their profession, but who do not know their names. These have also mentioned to the Investigating Officer in a rough descriptive way the persons that they saw in the rioting. These witnesses have subsequently identified at the Lock-ups the accused whom they observed in the rioting. Thirdly there are a few witnesses who are neither acquainted with the accused previously nor knew their names. These merely identified the accused in the Lock-ups.

34 The F.I.R. which is said to have been written by Mr. Subbanna, Inspector of the Administration Branch in Mysore City, at 3 A.M. immediately after the riot was quelled contain 13 names of accused persons. Out of these 13 two had died on the spot and one died in Hospital by 6 A.M. Out of the remaining 10 two were not included in the Charge sheet by the Investigating Officer for paucity of evidence against them. One other accused Abdul Karim who was the first accused in the Charge Sheet placed before the Magistrate's Court died in Hoispital after the Charge-sheet was placed. The remaining seven accused who are mentioned in the F.I.R. are A-2 A-3. A-4, A-5, A-8, A-9 and A-10. Inspector Shivaram Rao who is the Inspector of the Crime Branch in Mysore who was directed by the District Superintendent of Police to take up the investigation started the investigation soon after 3 A.M. after taking the copy of the F.I.R. from the Inspector Subbanna at about 7 A.M. He held a roll call of all the policemen who were on duty that night at the disturbance and examined all the constables and the Daffedars and ascertained from them the names of the accused persons whom they could name or identify. On the basis of this information and the F.I.R. he compiled a list of persons who were considered to have been concerned in the rioting. It included according to the Investigating Officer, the names of all the accused before

before court except A-7. These names except that of A-7 had been disclosed at the examination of these police witnesses at the roll call. These persons were arrested in the course of two or three days. The Investigating Officer learnt on the 13th January that A-7 had received a gun-shot wound. He was traced and sent to the K.R.Hospital on the 14th January. A bullet was removed from his forehead by Dr.Nanjunda Rao (PW.1 A-7 was included in the list of accused on the 17th January. Thus, information regarding the complicity of all the accused before the court except A-7 had been obtained by the Investigating Officer at the earliest opportunity Viz., the morning of the 11th itself.

35. It is no doubt true that much of the evidence regarding the identification of the accused is that of the Police Inspectors, Sub Inspectors, Duffedars and Constables. It was suggested by the learned Counsel for the Defence that the Police were under a duty to implicate and identify some accused or other that they would be under a sort of disciplinary control to support the cases put up by their Officers and that their evidence should not be relied upon. I cannot concede to any any general proposition that the evidence of Policemen cannot be relied or acted upon. It has to be judged on the same basis as the evidence of any other witnesses. The circumstances, the scope for identification and its nature, the existence of or absence of any special motive for giving evidence have all to be taken into consideration. In a mob rioting of this sort consisting almost entirely of one community Viz., Mussalmans it is difficult to expect private witnesses to come forward as most of them would pretend to have kept away from the unlawful assembly and would not admit that they were present in it lest police suspicion should fall on them. In the nature of the circumstances the best evidence that would be available is that of the police who were engaged in quelling the disturbance. The Inspector and the Investigating Officer

Officer can have no motive to implicate falsely persons ~~whom~~ ~~the~~ against whom there is no evidence of any complicity. Neither is it likely that the subordinate Police Officers and the policemen have falsely trumped up charges against innocent persons. If in any particular instance the police witnesses had any motive or animus, the defence would have brought it out in the Cross-examination of those witnesses. It is no doubt possible that in a few instances there is mistaken identity. But these are all matters to be taken into consideration in judging the evidence against each accused and the evidence of the police witnesses cannot be ruled out as biassed or unworthy of credence. In this case it happens that the main contingent of the police force that came on the scene was from Mandy Police Station in which jurisdiction the scene of occurrence ~~was~~ is situated. Consequently the majority of the identifying witnesses are policemen of Mandy Station. The Constables who have been working in this station for fairly long periods and some other constables of Devaraj Station who were previously working in the Mandi Station are acquainted with several of the accused and know them also by names. There is nothing unnatural in this since they might have come across one or more of the accused in the course of their duties and have come to know them as all the accused who are living in Mandi, Lashkar and Jayanagere were in the jurisdiction of the Mandi Police Station. Most of these witnesses have been cross-examined in regard to the nature and scope of their acquaintance with the accused and many of them have given cogent and convincing answers. They ~~xx~~ were able, therefore, to give out to the Investigating Officer the names of one or more of the accused whom they observed in the course of the disturbance. After noting the names of the accused so named on the 11th January the Investigating Officer asked the Police Constables to arrest such of

~~the accuse~~

of the accused ~~xx~~ ~~xxxx~~ whom they knew. These constables produced the accused before the Investigating Officer between 12th and 16th January and they were arrested. It was argued on behalf of the defence that at the time of the arrest of each accus no mahazar was prepared and no report of the arrest was given. As the offences alleged to have been committed are cognizable ones no warrant was necessary and ~~theirs~~ is nothigg obligatory in the Criminal Procedure Code to prepare a mahazar ~~on~~ arrest. After the accused were arrested they were lodged in the several lock-ups in the police stations in Mysore. Between 17th and 19th January the Police constables and other persons were taken in batches to the several lock-ups to identify such of the accus whom they had observed in the rioting. This is not strictly an identification parade. It was only further corroborative information for the Investigating Officer in his investigation. It was argued that an identification parade should have been held and it was merely farcical to take these witnesses to the lock-ups and ask them to identify the accused. In a way useful information would be available to the Investigating Officer to pursue his investigation against an accused from the identification by these witnesses. There were 10 or 12 accused lodge in each lock-up. Only a few of them are identified by each witness. So far as the Investigating Officer was concerned ~~xx~~ this would serve the purpose of an identification parade so far as corroboration for his investigation is concerned. An identification parade is not a procedure prescribed by law and it is not obligatory to have an identification parade. After all, even a regular identification parade is not of much evidentiary value It only serves as a clue to the Investigating Officer. There is no section in the Evidence Act which makes the identification proceedings evidence at all (1927.All.163). Consequently it is not sought by the prosecution to attach much importance to the identification of these accused in the lock-ups. Further in this case most of the witnesses who are Mandi Station Constables as already observed, were acquainted with the accused and knew

knew their names and there was no object in holding an identification parade, as they would very easily pick out from even a hundred the persons they had named.

36. Certain points were raised by the defence in criticism of the investigation. It was stated that it is suspicious that only 47 persons out of the mob of three thousand should have been arraigned and that the police have put up people at random. I am perfectly satisfied that there has been no cooking up or fabrication by the Investigating Officer. He examined all the policemen and other officers who were present at the disturbance and ascertained the names of all persons whom the witnesses observed to be participating in the rioting. These names of persons regarding whom there was any possibility of identification or evidence worth the name have been arranged by him in a list on the 11th itself. In the circumstances he could do no more as no other private witnesses could be expected to come forward. It would have been impractible to trace all the other persons that took part in the rioting and to collect evidence in regard to them. It would be obviously impractible to round up all persons in the three mohallas concerned and to collect evidence. This process would have merely lengthened out the investigation which has how been closed within a period of 12 days which is a remarkably short period for a case of this magnitude and would not have served any useful purpose except the dragging on of proceedings in the courts for any length of time and the causing of untold misery to several other people among whom many may be innocent. The argument regarding the arraignment of only 47 accused - would not help the accused before court in any manner since the only question is whether they are culpable and it matters very little if it happens that others who are culpable have been let off.

37 It was next argued that it is incredible that the mob consisted of only Mussalmans and that it must have included Hindus also and that it is unsatisfactory that a case should have been put up against Mussalmans only. Almost every witness has stated that the mob consisted almost entirely of Mussalmans. The evidence of Morris (P.W.3), Van -Ingen(PW.4 Father Fauga (P.W.2), Father Joseph (P.W.5), Miss Fonseca(PW6 Mr.Guru Dutt (P.W.8), Mr.Mc Nerney (P.W.14), Mr.Srikantiah (P.W.15), Mr.Murthy (P.W.16) and several of the non-police witnesses is to the effect that it ~~was~~ was entirely a - Mussalman crowd. It is ~~pob~~ possible that there were some Hindus here and there but they were on the fringes as a few Hindus were found to have been injured by bullets. But there is no evidence that they participated in this disturbance. If Hindus had participated in the rioting, there is no reason for the police to desist from putting up cases against them also. It is to be noted that the origin of the disturbance was the canard that some Mussalmans boys had been decoyed into the Church for the purpose of sacrifice. Such a canard naturally spread into the homes of Mussalmans in the Mandi and Lashkar Mohallas and Earnagere. The complaint at the Mandi Police Station was also given by Mussalmans. It is very likely therefore that they collected in numbers at the Church to vent their alleged grievance and the Hindus took no interest in the matter. It was not ~~likely~~ really a general kidnapping scare similar to the one that is said to have found currency in Bangalore a few weeks previously. This is after all not pertinent in regard to the question of culpability of the accused before court.

38 It was very vehemently argued by the learned counsel for the defence that the investigation was very artificial ar that the evidence of the police witnesses is also artificial and bears the impress of having been tutoured. According to Inspector Subbanha, he prepared the F.I.R. at 3 A.M. and -

and delivered a copy of it to Inspector Shivaram Rao of the Crime Branch who had been directed by the D.S.P. to conduct the Investigation. Exhibit D.15 is the copy of the F.I.R. given to Inspector Shivaram Rao. In this under the column "Particulars of the accused" it is noted as "Md.Gouse and several others (list enclosed)". Exhibit D.15-a is said to be the list which was enclosed with Exhibit D.15. Exhibit D.14-and D-14a are (the copy) of the First information report and its enclosure sent to the City Magistrate. In the list enclosed with the F.I.R. the names of 13 accused appear. The date noted on the F.I.R. is 11-1-37 -3 A.M. The date that appears on the list enclosed with it is 13-1-37. On account of this discrepancy between the date on the F.I.R. and that on its enclosure it has been very strenuously contended that the list must have been prepared subsequently on the 13th January inserting some names as it pleased the Inspector and sent that day. Inspector Subbanna states that '13' is a mistake for '11'. Inspector Shivarama Rao also states that he received the enclosure along with the F.I.R. on the 11th itself and that he has included the names of the accused in the F.I.R. in his list of accused which was prepared on the 11th after he examined the police witnesses. There are very good reasons to believe that '13' is merely an inadvertant mistake for '11' and that the list is not a subsequent concoction. It is specifically mentioned in the body of the F.I.R. that a list of the accused is enclosed. The list is referred to in a number of places in the substance of the report also. This F.I.R. has been presented to the City Magistrate on the 11th January itself as is evident from his note on that date. If the list had not been given to him along with the F.I.R., he would certainly have asked for it. Mr. Guru Dutt (P.W.8) the then City Magistrate has not been cross-examined in regard to the date on which he received the enclosures to the F.I.R. Apart from this it

Apart from this it would have been futile to prepare a list of some 13 persons on the 13th and present it. The names of as many as 50 accused persons had been ascertained by Inspector Shivaram Rao from the constables he examined and had come on his list of accused on the 11th itself. If the F.I.R. had been prepared on the 13th the names of all the accused which the two Inspectors intended to lug in would have got into the list. There is no point in preparing an F.I.R. with 13 names on the 13th when the names of nearly 50 persons had already been ascertained as being those of the accused, if as argued, the Police authorities were making desparate efforts to add in more accused and Mr. Subbanna would not have been so foolish as to prepare an F.I.R. on the 13th with 13 names and run counter to their own object. If it was concoction on the 13th Mr. Subbanna would have anti-dated it as the 11th as it was intended to be an enclosure to the F.I.R. sent on 11th. This would also involve the position that the City Magistrate also was a party to this fraud as he took a list given on the 13th as if given on the 11th and this is grossly absurd.

39 It was next argued that as the F.I.R. mentioned only 13 names and the police authorities thought that it would be considered that it was a very unskillful and inefficient investigation if a case was put up against a small number of persons - 13 out of a mob numbering over 3000, there was subsequently a desperate attempt on the part of the authorities to put in more people as accused. It is contended that the police authorities put their heads to-gether, took the investigation out of the hands of Inspector Subbanna and gave it to Inspector Shivram Rao and that this was merely a ruse to cover the inaccuracies in the F.I.R. There is no reason to think that the F.I.R. is in any respect suspicious or that there was any special and desparate attempt on the part of the Police to put in more people as accused.

accused. After all, considering the size of the mob which was above three thousand, there is not much difference between 13 and 46 compared with three thousand. The F.I.R itself specifically mentions the names of 13 persons and it is added at the end "Several other persons". This clearly shows that only those accused that came under the observation of Inspector Subbanna and whom he could remember were put in the F.I.R. and he has considered that this was only a preliminary list and that several others would have to be added up after further investigation. If there was any the least idea in the minds of the police officers to concoct a list, Inspector Subbanna would surely have waited till the close of the 11th and prepared a list after information was secured informally from all the persons that were present there. The list, according to Inspectors Subbanna and Shivram Rao, was prepared at 3 A.M. and as Inspector Subbanna had given it away he could not very well recall it and add to the list of the accused. The further action taken by the police after the F.I.R. was sent would constitute investigation. The object of the F.I.R. is to send to the Magistrate having jurisdiction at the earliest stage information of the commission of an offence to the extent available. It presupposes that after further investigation more accused persons may be added and chargesheeted if the investigation discloses that they have committed the offence. Merely because a name is not mentioned in the F.I.R. it does not follow that subsequent addition is a concoction. In a case of mob rioting of this sort it would be impossible to put in the names of all the accused at the time the F.I.R. is sent without further investigation. According to Section 157 Cr.P.C. the F.I.R. has to be sent before investigation commences and as investigation had to commence immediately in this case Inspector Subbanna prepared an F.I.R. at 3 o' clock itself. All that he has done in it is to enter the names of the persons that he observed. There

There was no necessity at that stage for him to examine other persons who had witnessed the riot as he himself witnessed the incident as noted in the F.I.R. itself. He entered in the lis appended to the F.I.R. the names of the persons whom he had observed in the riot and which came to his memory at that stage Under the heading "No. of offenders said to be concerned " he has entered "Mob of Moslems" which itself indicates that the offenders are very many and have to be ascertained. Strictly, in the F.I.R. form there is no column for names of accused. All that has to be entered is:-"name of informant and substance of complaint or intelligence received with date of occurrence and names of persons and all circumstances mentioned in connection with the occurrence reported". In the list he has mentioned the names of 13 persons and has added the words "and several other persons". There is thus nothing fishy in the F.I.R. and it appears to have been sent in the ordinary course.

40 Against the names of the first three persons entered in the list enclosed with the F.I.R. the words "since dead" are added at the end within brackets. These three persons had fallen down having been shot with bullets. They were removed to the Hospital. Two had died on the spot and the third Md. Gouse appeared to have died subsequently in the Hospital at about 6-30 A.M. It is contended that since the words "since dead" are found in the F.I.R. in the list against the name of Md. Gouse, Inspector Subbanna must have prepared the F.I.R. after 6-30 or 7 A.M. and not at 3 o' clock as stated. It is possible that since all these three had received fatal wounds and had been removed to the Hospital in a dying condition he may have noted these words against the name of Md. Gouse thinking that he was dead at the time the F.I.R. was written. Subbanna himself was not question-ed specifically in cross-examination with regard to this. After all, it does not appear to matter very much whether it was prepared at 3 o'clock, or 7 o'clock, or 10 o'clock as nothing materially turns upon it. It must

must have been prepared at any rate before the F.I.R. was presented to the City Magistrate at 11 o'clock. It cannot be that it was prepared after Inspector Shivaram Rao ascertained the names of several accused from the police constables at the roll call, as otherwise those names could easily have found a place in the F.I.R.

41 It was next argued that the transfer of the investigation from Inspector Subbanna to Inspector Shivaram Rao appears to be suspicious and that the D.S.P. ought to have been examined to explain the reason. Inspector Shivram Rao was not in his quarters when the rioting took place and had gone to his brother-in-law's house in Sivarampet. At about 2-45 A.M. he received information of the rioting and he went to the spot at about 3 A.M. The D.S.P. who was also there directed him to take up the investigation. The investigation had not yet started and he commenced it at once. Being the Inspector of the Crime Branch and having no other duties executive and administrative in the City, it must have been thought that he could devote full attention to the investigation of the case instead of Mr. Subbanna who would be fully occupied in connection with the maintenance of peace and order in the City at a time when excitement ran high on account of this disturbance. There is no room for any suspicion in the Crime Branch Inspector being directed to take up the investigation. The D.S.P has not been examined, probably because he was not in a position to give any useful information in regard to the identity of any of the culprits.

42 It was next argued that the story of a roll call being held at about 7 in the morning and of the police constables being examined and their statements being taken down is not believable and that the whole thing has been engineered subsequently to give an air of reality to the investigation and that the names of persons have been entered in the list of the accused at random. Inspector Shivaram Rao states that as

as soon as he took up the investigation he examined the City Magistrate and other officers who were there and asked all the constables to stay there till he held a roll call. He held the roll call of the daffedars and constables at 7 A.M. and examined in all 59 constables and daffedars. He recorded the statements of these witnesses in his investigation note-book and all this took about 4 to 5 hours. There is ample evidenc that the police constables were examined that morning and ther is no reason to disbelieve all the 40 or 50 witnesses that speak of this. Almost every witness states that the roll call of the constables commenced between 6 and 7 A.M. It is argued that all the witnesses state that they were examined at about 7 A.M. and that it would have been impossible to examine s many as 59 witnesses in the course of an hour. It is not correct to say that all the witnesses state that they were examined at 7 A.M. Some of the witnesses have been specifically cross-examined in regard to the time of their examination and some have not been questioned. Out of those that have been questioned about it, some give the hour as 7, some 8, some 8-30 and so on, for example, Pws. 63, 52, 53 and 68. It was also argued that the ascertaining of the names of accused from the constables was merely a pretence and that merely because a certain name was given it cannot be said to fit a particular accused in court as there may be many others of that name in Mysore City. Inspector Shivaram Rao states that 34 of these witnesses gave him names of the accused and some particulars such as profession and residence of the accused. These were noted by him in his investigation note book. Then he made a list of the accused from the information collected. In the special diary he merely noted a precis noting against each witness the number of the accused whom they named so as to avoid unnecessary scriptory work. There is nothing wrong in his having noted in the Special Diary such a brief statement. According to para 212 of the Mysore Police Manual Vol. I it is

is in the investifation note book that the record of an investigation has to be written in sufficient detail to follow the course of investigation while according to para 211 the case diary need only contain a brief statement of the facts related by the witness.

43 It was argued that the investigation note book was a later development as it was produced in the Magistrate's court only on 22-3-37. This is a note book which has to be kept by every investigating officer under the rules and is the primary record of the investigation. It cannot be doubted that in an important case of this sort the investigating Officer did maintain this record from the commencement. If the Court had directed him to produce it, it would have been sent to Court. Unfortunately he does not appear to have been questioned specifically in regard to this note book in the City - Magistrate's Court or directed to produce it earlier. When he was being cross-examined on 22-3-1937 he stated that he had noted what the witnesses stated in his note book and he had it with him. The learned Magistrate thereafter gave full opportunities to the defence to take copies of statements of witnesses recorded in this note book in accordance with - Sec. 162 Cr.Pro.Code, resummoned all witnesses who had already been examined and tendered them for further cross examination with reference to their statements in this note book. The defence availed of this opportunity in some cases and dispensed with cross-examination in others.

44 Since the constables who knew the particular accused gave out their names as well as descriptive details of their profession, residence etc., it would not have been difficult to fix upon the accused persons. Further the Investigating Officer directed the constables who were acquainted with the accused named by them to produce them and they did so in the course of two or three days. Thus, there could be no difficulty about the identity of an accused before the court with

with the name given out by a particular constable witness. The real question is whether the evidence of that particular constable witness that an accused whom he identifies was a participator in the riot is believable. All that the investi gating Officer in this case has done is to prepare a list of the adcused on the information ascertained by him from these constable witnesses. It cannot be said that there is any concoction in this or that the investigating officer inserted the names of persons at his whim. There is also no basis for the contention that the police witnesses are under mandate to give evidence in a particular manner. On the other hand, it is from the information furnished by them to the investigating officer that he prepared a list of the accused. No doubt the are some inconsistencies and contradictions in the depositions of the witnesses. One or two have also attempted to overdo their part such as P.W.41 Javariah who states in this Court that he saw A-21 actually set fire to one of the sheds, while he did not make any such statement in the Magistrate's Court. Some inconsistencies are natural in a case of this sort. Merel on account of a few discrepancies the entire prosecution case cannot be brushed aside as being unreliable.

45 It was very vehemently argued that if these policemen had observed some of the accused during the rioting, they would have given out the names and informed details at once to the Sub Inspectors on the spot or to the Inspector Subbanna who is said to have instructed them to keep a note of such of the - rioters as they could identify for taking proceedings against them and that they would not have kept quiet till the roll call in the morning. There were only two Sub Inspectors on the spot and one of them Ramachandran had been very seriously injured an taken to Hospital and the other, Sub Inspector Laxman also - received injuries. The mob had dispersed about 2 or 2-30 A.M. and in the nature of things it would have been impossible for

for Inspector Subbanna to go about with his note book and record the statements of these constables or ascertain the names of the rioters from them. While the Church was burning and Officers were being hit, was it the time to go about questioning the constables about the names of the rioters and would any Officers in his senses do it? His attention was all engrossed in getting the fire engine into the Church to quench the fire and in trying to disperse the mob. It is only when the investigation starts that he can examine them and record their statements and the names of the accused. - Before the investigation started he had to prepare the F.I.R. and this is what he did as soon as the disturbance was quelled. By the time the F.I.R. was prepared Inspector Shivaram Rao was directed to take up the investigation. He took charge of the investigation at about 3 o'clock and he went on examining the several officers that were there till about 6 A.M. Subsequently he has come to the examination of the constable witnesses. It would neither be natural nor the proper procedure for every - constable to go up to Inspector Subbanna wherever he was or whatever he was doing, to tell him that he observed such and such persons. In the circumstances that existed at the time the disturbance was quelled, it would have been impossible for Inspector Subbanna to go about with his note book. His first concern was to see that the injured are sent to Hospital and to arrange sufficient safeguards and take precautionary measures against a recurrence of the trouble either in the same - locality or elsewhere. The interval between the dispersal of the mob and the writing of the F.I.R. by Inspector Subbanna was not even half an hour. Since the investigation was started by Inspector Shivaram Rao immediately, there was no point in Inspector Subbanna going about to collect information from these constables as Inspector Shivaram Rao who was investigating was the proper person to do it. In fact he had asked the - constables to stay there till he examined them. There was no

no opportunity or necessity for Inspector Subbanna to question the constables or for them to have named the accused to him.

46 It was next contended that the rioters were not arrested then and there but were got up by the policemen a few days afterwards at their sweet will and pleasure. The evidence shows that immediately after the Reserve Police fired, the mob dispersed. For the previous 5 hours the Police were at great pains to disperse the mob. It would have been an impossibility to arrest the culprits at that stage and it would have been foolish to attempt any such thing as the mob consisted of about three thousand persons while the police were about a hundred and any such attempt would have infuriated the mob all the more and would have ended in more drastic results. The policemen were acquainted and also knew by name the particular accused persons whom they had observed and so it would have been easy for them to arrest subsequently those persons as they would be the best persons to spot out the accused. There is nothing irregular or suspicious about officer. This procedure which was adopted by the investigating officer.

47 It is contended that if the police had given sufficient descriptive details of the accused persons to Inspector Shivram Rao he would have ordered their arrest immediately on the 11th Jan. itself and as these were arrested only between the 13th and 16th Jan. the investigating officer was not certain of the identity of these persons. There was precious little delay in the arrest of these persons. He has gone on with the examination of witnesses on the 11th. He had to arrange all the information gathered by him which consisted of over 70 or 80 pages in his note book. He had to verify and consider about the sufficiency and the nature of the evidence against the accused before he could take further action. On the 12th also he examined some witnesses in places round about the church and in Lourde's Nagar. He had asked the constables that had named the accused to produce,

produce them. On the 12th itself 12 accused were produced by several constables and these were arrested. Nearly 24 were arrested on the next day, i.e., 13th Jan. It cannot therefore be said that there was any special delay in the arrest of the accused to give room for any suspicion.

48 It was argued that only people of the lower social strata such as cart-drivers, jutka-wallas, porters, hawkers and petty shopkeepers have been put up as accused, and that this has been done designedly in order to facilitate an easier identification on the part of the police constables. It is stated that people of substance or of a better social rank have been omitted and that as the constables would be acquainted with these lower class people they have been put in. It is obvious that people of substance or social standing or of any respectability would naturally desist from joining a mob-rioting of this sort. It is only people who have no stake or of the lower rung and rowdies that would not mind joining for causing such a disturbance as this. It is admitted that it was an ignorant and uneducated rabble. It cannot therefore be expected that people of substance or of education could be found in the mob. It is possible that a few people of worth and education pull the strings from behind the screen, but the investigation cannot be blamed for it as it may not be possible for the investigating officer to place sufficient evidence against them of a convincing nature.

49 Mr. Srinivasiengar strenuously animadverted upon the act of the authorities who were on the spot in ordering fire to be opened on the mob. It was argued that there was no necessity to order fire and kill innocent persons, that the police were merely dallying with the crowd for two or three hours and that if the authorities had called in the Military early the crowd would have melted away at the mere sight of the Military. The loss of life is regrettable and it is also a matter for regret that the occasion for firing should have arisen. We are not very much concerned in this case about

about the propriety or otherwise of the firing. But it has to be observed that this argument does not take serious note of the circumstances that existed when firing was ordered. The mob had caused damage to the church and the Priest's quarters and set fire to the sheds. They had injured a very large number of police men and officers and also the city Magistrate himself. Stones and brickbats were being thrown indiscriminately. They prevented the fire engine and the police officers from quenching the fire. It had gathered strength to the extent of about 2, or 3 thousand. When the fire engine entered the church compound at its third attempt the entire mob made a rush into the church compound in a very agressive attitude. As imminent danger to life and property was apprehended, the City Magistrate ordered firing. But for this act, very likely, the mob would have annihilated the few police and officers that were there and created considerably greater havoc. The police and the City Magistrate thought for some time that by persuasion and such means the mob could be made to disperse. It is only when their violence increased and danger to life and property was apprehended that firing was ordered. The argument that if the Military had been called in earlier the mob would have melted away at the mere sight of the Military is not very convincing. It is an arm chair argument to suggest now after the incident is over that this might have been or that might have been done to disperse the mob. The mob would not listen to the persuasions of the City Magistrate and the police. On the other hand they found their presence irksome as the mob could not have their own way in causing havoc in the church and violence increased everywhere. It is possible that if the leaders of the community had come out and given counsel, the mob may have listened to them; but no such persons came. All efforts were made for four hours to disperse them by peaceful means. It was only when the situation became entirly uncontrollable and there arose imminent danger to life and property at the hands of the mob that firing was ordered. The evidence discloses that necessity had arisen for firing

firing and it was justified in the circumstances that existed. Even the provisions of the Criminal Procedure in chapter IX contemplate the use of Civil force only in the first instance to disperse unlawful assemblies (Sec.128). It is only when such assembly cannot be otherwise dispersed that the Military has to be called in (Sec. 129). If the Civil authorities could disperse a mob by using such force as may be necessary, it is not desirable to call in the Military as this might create an exaggerated impression of the affair in the public mind. Once the necessity for resisting to fire arose, it does not matter much whether the Reserve police is ordered to fire or the Military. This was not a mob which would melt away at the sight of the Military. If the Military had come into a mob of this sort there would very likely have been greater loss of life and injury to persons. The mob would not disperse even when the Magistrate gave warnings that firing would be resorted to and even when they saw the Reserve Police there fully armed. It is therefore somewhat futile to argue that there was no necessity for the Reserve Police to fire. The circumstances were such that the Military would also have been forced to use fire to desperse the mob and, if they had fired, there would certainly have been very many more casualities. It is unnecessary to labour on this point very much as it is not very pertinent to the present enquiry.

50 It was pointed out that the firing is said to have been resorted to because the mob rushed into the compound, but that the firing was not directed against the mob in the compound but outside. Inside the compound there were the City Magistrate and other officers, and also many policemen mixed up in the mob. It would have been absolutely foolish on the part of the Reserve Police if they had fired inside because there was as much chance of their hitting friends as of foes. Merely because the persons who had bullet wounds were found on the western side of Dodpet it cannot be said that the firing was directed in wrong directions. It is not unlikely that the people who were hit were at the church compound wall or

or the gate or even inside and attempted to ~~xxxxxxxxxxx~~ run away and they fell down, as is the case with A-7 who went away and hid himself in his house till the 14th Jan. with a bullet lodged in his forehead. It cannot be inferred that the shots were all directed in wrong directions. There is no doubt that some at least of the shots must have been directed against the mob because there have been at least ten casualities ascertainable, from bullet shots. The very fact that the mob dispersed immediately after the firing shows that the firing was ~~xxxix~~ effective, whatever the direction of the firing may have been.

51 It was stated that none of the accused were identified by persons whose evidence can be considered more ~~credible~~ and that all the identifying witnesses are only policemen. It is stated that persons like Mr. Srinivasan, Municipal President and the D.S.P. Mr. A Rangaswami Iyengar have not been examined and that other witnesses like the City Magistrate, the Station Master and officers of the fire engine have not been able to identify any of the accused. From the condition in life of the accused it is obvious that the witnesses referred to who reside quite apart from them and who are entirely separated from them in social status would not be in a position to be acquainted with and identify any of the accused. Ordinarily in such a crowd as this a man would be able to identify only persons who are his acquaintances or of a similar social status, unless there are some very exceptional reasons for his observing and noting in his mind the acts of any particular person. Further if it was a case of one or two persons committing an offence and a person sees them, there is a greater probability of an impression being created in his mind and his retaining it in memory. When one sees hundreds and thousands of faces in a mob rioting of this sort it is well nigh impossible for one to note with precision and to recollect any person that he saw there with whom he was not particularly acquainted or whom he had not known previously.

52 Out of the 76 witnesses examined for the prosecution leaving out 22 witnesses who do not identify any particular accused but merely speak to the ~~indix~~ incidents that took place and of formal matters, like the doctors and the investigating officer, there are 54 witnesses who identify one or more of the accused. It is no doubt true that except 8 of these witnesses the remaining 46 identification witnesses are police officers and policemen~~X~~. The principal and the most vehement argument of the learned counsel for the defence against the credibility of the prosecution evidence is that the evidence consists mainly that of policemen and no weight should be attached to it. I have already observed that the evidence of a policeman cannot be rejected as being incredible merely on ~~that~~ the ground of his office. It is to be judged by the same standards as the evidence of any other witness. Except in an instance or two to which reference will be ~~x~~ made when the evidence against each individual accused is considered, there has not been a suggestion, either during the cross-examination of the prosecution witnesses or in the defence evidence of any animus between the police witnesses and the accused, or any motive which would have prompted them to falsely implicate the accused. There are very nearly 50 of them who have been examined and it cannot be said that they are all obeying any mandate of their superior officers to give false evidence. Among these witnesses there are Musalmans also and among the accused there are a few who are related to these police witnesses. Where is the ~~the~~ motive for them to speak falsely against their kith and ~~xx~~ kin and members of their own community? Where is the motive for the Inspector or the police officers who are responsible for the investigation to trump up false charges against innocent persons? None has been suggested and no suspicion attaches to the course of investigation.

It would be foolish to suggest that this was a ruse of the Police to extract money by implicating people, because admittedly all the accused are poverty stricken. It is not a convincing argument that the accused have been falsely implicated to preserve police prestige. In the circumstances of the case the best evidence that can be expected is from the police officers who were moving about in the thick of the crowd and who had opportunities of observing the participators in the riot It cannot be expected that Mussalmans who were in the crowd and who probably tacitly sympathised with the crowd would come forward to give evidence against them. A few other officers like the City Magistrate and others who were present at the scene could not for obvious reasons identify any of the accused. They had no previous acquaintance with these people and can hardly be expected that they could recollect the thousands of faces that they saw in the confusion of that night. The police witnesses are mostly of the Mandi Station in the jurisdiction of which the localities where large numbers of the mob are living, or policemen of other stations who had previously served in the Mandi Station. These policemen had naturally opportunities of coming into contact with one or more of the accused and knowing them. Some of the witnesses are well acquainted with one or more of the accused and know their names. Some other witnesses have seen one or more of the accused a number of times previously and could identify them though not knowing their names. As already observed by me, remembering the condition in life of the majority of the persons that assembled there for rioting, it is no doubt easier for the policemen who moved about and mixed with those persons, to identify them. It has to be observed that the police by the very nature of their work which consists of constant observation of offenders and tracking and surveillance of suspects, get a special training or habit for remembering faces and identifying persons.

53 The crowd dispersed at about 2 a.m. and the constables who were there, were all posted here and there round the

the church premises for guard, and the investigation commenced immediately afterwards at 3 a.m. The constables were all detained ther and were required to be there till they were examined. They were examined some 5 or 6 hours later in the morning. In the circumstances it is abundantly clear that these constables would have had no opportunity of concocting evidence or getting up names of accused persons. The impressions of the faces familiar to the constables which they saw some 6 or 7 hours back would have been still vivid in their mind. Consequently they were in a position to state to the investigating officer the names and particulars of the accused whom they knew and saw among the rioters. This circumstance would to a great extent add to the credibility of these police witnesses. It is no doubt possible that there may be a few cases of mistaken identity and this is a question to be determined on all the evidence against each accused. Further since the constables had all been detained there and examined within some hours of the rioting no constable could easily have dared to risk mentioning names at random because it might turn out that a person named was not in Mysore at all. Consequently every constable would have named the accused realising the responsibility and the gravity of the situation. Further they had no motive to implicate persons at random, even though not present in the rioting, apart from cases of mistaken identity.

54. An argument was raised that none of these constables are able to identify the accused or persons oth r than those named by them and who were with those persons named and also that they are not able to state details as to the order in which they were examined at the roll call or the accused who were in a particular lockup at the time the witnesses were taken th re for identification. Those are not facts in issue and are somewhat irrelevant details. If they had constituted the facts in issue, it is possible their mind and

and attention would have got rivetted on those circumstances and they would have been able to depose regarding them. In this case there was a serious rioting and it is the duty of every policemen and one of his primary duties to take note of offenders and bring them to justice as laid down in the Police Regulation Section 48(1-b) - "Every policemen shall to the best of his ability obtain intelligence [illegible] concerning the commission of cognizable offences or design to commit such offences and report such information and take such other steps consistent with law and with the orders of his superiors as shall be best calculated to bring offenders to justice or to prevent the commiss on of offences." Besides this, it is in evidence that Inspector Subbanna had directed these constables to keep note of such of the rioters as they knew so that proceedings might be initiated against them. There is nothing therefore surprising or unnatural in these constables observing the acts of such of the people whom they were acquainted with and keeping them in mind for reporting to the Inspector in due course. It is obvious that when the church was burning and constables were being hit and the crowd was thick/ rushing here and there, no constable could have gone on keeping paper and pencil and note the names of several rioters after ascertaining their names. Each constable fixed in his mind only those whom he knew well or had seen previously and fairly frequently. With these observations in regard to the nature of the prosecution evidence and the weight to be attached to it, I shall proceed to a detailed consideration of the evidence adduced by the prosecution against each accused and his plea.

A-1 Abdulla Sab:

55 He is a bullock cart driver and is a cooly in the Mandi Market where he carries bags. P.W.33 Abdul Azeez, P.W.39 Joseph, P.W.47 Anthony ~~and~~ who are constables attached to the Mandi Police Station, and D.W. 54 Krishniah a constable who had previously worked in that Station state that the first accused was in the rioting. They are all acquainted with him and know his name also. P.W.24 Gundiah a P.R.P. constable who has previously seen him but does not know his name states that A-1 was rushing in and throwing stones. There is no reason to discredit the testimony of these witnesses especially as one of them is himself a Muhammadan. A-1 states that he did not go to the scene of occurrence that night. His plea in this court is that he left for Gargeswari at 9 p.m. with his bullock cart. But this was not stated in the committing Magistrate's Court. One witness Md. Peer(D.W.36) has been examined to show that he hired the cart of A-1 that night to go to Gargeswari to see his father-in-law. It is extremely doubtful that ~~the~~ he went in the bullock cart the whole night to Gargeswari when Buses would take him there in a few hours. This specific defence was not pleaded in the Magistrate's Court and appears to have been got up in this Court and no reliance can be placed upon it. The evidence against him is strong and there is no reason to discredit the five witnesses who speak to his participation in the rioting. P.W.24 Gundiah and P.W.47 Anthony state that A-1 was pelting stones and trying to rush in. P.W.33 states that he was pelting stones and was beating with bamboos. P.W.39 says that A-1 was throwing stones at the church. P.W.54 says that A-1 was throwing stones at the church and obstructed the fire engine from proceeding. It is clear from this evidence that A-1 participated in that portion of the

the crowd which caused damage to the church and the Priest's Quarters. Consequently he would be guilty of charge I the general charge of rioting under Section 147 I.P.C. and also charges II, IV and XIV, i.e., offences under Sections 295, 297, 448 and 427 ~~m~~ I.P.C. respectively read with Section 149 I.P.C. The damage caused by the mischief is very much more than Rs.50/- and the offences committed by these accused would come under Section 427 I.P.C. Since the fire engine was prevented from quenching the fire and hurt was caused to the members of the Fi squad and also to the policemen who are public servants, by intentionally hurling stones and brickbats against them, and they were deterred from doing t an offence under Section 332 I.P.C. has been committed in prosecution of the common object of the ~~mmm~~ unlawful assembly. Since A-1 was a participator in the crowd that obstructed the fire engine and caused hurt to public servants to deter them from discharging their duty he is also guilty of an offence under Section 332 I.P.C. read with Section 149 I.P.C. He is therefore guilty of the offence under Charge VIII also. There is no evidence that he was found in the vicinity of the sheds or the places where fire had been set and consequently he would ~~be~~ not be guilty of the offences of mischief by fire and offences under Sections 435 and 436 I.P.C. i.e., Charges III and VI. The assessors have been of the unanimous opinion that he is guilty of charges I,II,IV,V, VIII and XIV and not guilty of the other charges. Agreeing with the unanimous opinion of the assessors I find A-1 guilty of offences under Sections 147, 295/149, 297/149, 448/149 332/149 and 427/149(Charges I,II,IV,V,VIII and XIV) and not guilty of the other charges. As regards the sentence, it has to be observed the offences that the accused have committed ~~is~~ are serious ones. In an open and crowded locality of Mysore they have taken the law into their own hands and caused considerable damage to a venerated edifice which is being constructed at a very great cost. The seriousness of the offences would call for

for a fairly severe sentence. But it has to be considered that the accused did these acts in the heat of the moment and not as cold-blooded, incendiaries. There was no premeditation or pre-arranged plan for causing damage to the church. A rumour spread that Muhammadan children had been taken into the church for sacrifice. A small crowd collected initially and the numbers gradually swelled. They got infuriated at their not being able to enter the church building and in the heat of passion committed these acts. There is also the fact that these accused have been in the jail as under-trial prisoners for almost six months. Taking into consideration all these circumstances I would consider that a sentence of two years' rigorous imprisonment would meet the ends of justice with regard to most of the accused except in respect of those that participated in the offence of mischief by fire. I convict A1 Abdulgadir of the above offences, for and sentence him to undergo rigorous imprisonment for two years for the offence under Section 147 I.P.C., to one year R.I. 295/149 " one year R.I. 297/149 " one year R.I. 448/149 - 2 years' R.I. 332/149 - and 2 years' R.I. 427/149 - The sentences will run concurrently. I acquit him of the other charges.

A-2 A. Khasim

56. He is a boy of 18 years employed in a cycle shop in Mandi Mohalla. His name is found in the F.I.R. P.W.27 Jaffedar Sivaprasad, P.W.32 S.I. Ramachandran, P.W.73 Insp Subbanna speak to his presence in the riot. There is no reason at all to discredit their testimony. P.W.27 and 73 have seen him previously and know him. P.W.32 has seen him previously but does not know his name. A-2 admits that he had gone to the spot that night, that he went there to

to see what ~~it~~ was going on and did not throw stones. He is one of the members that received a gunshot wound. He was taken to the hospital in the morning itself. Ex.P.3 -h is the engry in the Accident Register and P.4-g is the wound certificate. He underwent treatment in the hospital for many days. There is not the least doubt that he was in the mob. P.W.27 says that A-2 was throwing stones on the church and the police and on the globe lights and inciting the mob. P.W.73 says that A-2 was pelting stones and brickbats. P.W.32 says that this accused was seen by him at the place where the shed was set on fire. As he was throwing stones on the church and the police he would be guilty of offences under Sections 147, 295/149, 297/149, 332/149 and 427/149 and 448/149 I.P.C. Since there is evidence that he was near the sheds which were set on fire he would be guilty of the offence under Section 435/149 I.P.C. All ~~assessors~~ are of the assessors in opinion that A-2 is guilty, but there is a slight difference in the Nos. of charges. Four assessors are of opinion that he is guilty of charges I,II,IV, V,VIII and XIV, while three others opine that he is guilty of charges I,II,V - I,IV,V - I,II,V and VIII respectively. I agree with the opinion of the majority of the assessors and I find A-2 guilty of charges I,II,IV,V,VIII and XIV. I find him guilty in addition of charge VI. So I find A-2 guilty of offences under Sections 147,295/149,297/149,448/149,435/149, 332/149 and 427/149 I.P.C. Considering the fact that he has had already a very severe punishment by way of a bullet shot injury which necessitated his stay in hospital for a fairly long period and also the fact that he is still a young boy of 18 years a sentence of one year's rigorous imprisonment would meet the ends of justice. I convict him of the offences mentioned above and acquit him of the other offences. I sentence him to undergo 1 year' s R.I. for each of the offences under Sections 147, 295/149,297/149, 448/149, 332/149 and 427/149 I.P.C. and to one year's R.I. and a fine of Rs.25/- or in default to one month's R.I. under Section 435/149 I.P.C. The substantive

The substantive sentences will run concurrently.

A-3 Gulam Ahmed:(alias Babu)

57 A-3 is a boy of 20 years employed in a shop in Mandi Mohalla. His name also finds mention in the F.I.R. P.W.27 Sivaprasad, P.W.32 Ramachandran Kuchikan, P.W.66 P.C. Aralappa, P.W.73 Ins.Subbanna speak of his presence in the riot. They all know him previously and three of them know his name also. There is credible evidence against this accused. A-3 states that he was coming from the Cinema and that he received a bullet wound. This accused was found injured by a bullet shot and was removed to the hospital where he underwent treatment. Ex.P.3-bb and P.4-aa are the ~~xxxxxx~~ entries in the Accident Register and the wound certificate. There is no doubt that he must have been participating in the riot. The evidence against him is that he was found throwing stones on the church, lights and the police and also obstructed the fire engine. He ~~xxxx~~ would therefore be guilty of the charges I,II,IV,V,~~VI~~,VIII and XIV. Four of the assessors are of opinion that he is guilty of these charges while one opines that he is guilty of charges I,II, IV and V only, while two others opine that he is not guilty. I agree with the opinion of the majority and find him guilty of the offences under Sections 147,295/149, 297/149,448/149,332/149 and 427/149 I.P.C. I convict him of these offences and acquit him of the other offences. For the same considerations which apply to A-2 I sentence A-3 to one year's R.I. for each of the offences of which he is convicted. The sentences will be run concurrently.

A-4 Abdul Sattar:

58 He is 25 years of age and is said to be working in a perfumes distillery. His name also ~~xxxxx~~ appears in the F.I.R. P.W.47 P.C.Anthony, P.W.48 Chatrasingh P.C., P.W.72-

72 S.I. Laxman and P.W.73 Ins. Subbanna speak to his presence at the rioting. P.W.48 did not identify him in the lower court but there is no reason to disbelieve the Sub Inspector and the Inspector as this accused is a K.D. they are in a position to know him well and they must have observed his presence in the riot. In the K.D. Register-Ex.D13 it is mentioned that A-4 was found that night in his house at the time of checking. It was argued therefore in his behalf that he was at his house and could not have been in the riot. The checking of K.D.s is at about 11 p.m. and as his house is fairly near to this spot it is not impossible for him to have come to the church after the checking. The evidence against him is credible and there can be no doubt that he participated in the riot. The evidence is that he was throwing stones and brickbats. He would consequently be liable for charges I, ~~III~~, IV, ~~V~~, VIII and XIV. Five of the assessors are of opinion that he is guilty of these charges while one other considers that he is guilty of charges I, II and IV only and another assessors opines that he is guilty of one charge only. ~~I agree with the opinion of the majority and~~ find A-4 guilty of offences under Sections 147, ~~295/149~~, ~~297/149~~, ~~448/149~~, 332/149 and 427/149 I.P.C. I convict him of these offences and acquit him of the other offences. For ~~him~~ each of the offences under Sec.147, ~~295/149~~, 332/149 & 427/149 ~~xxxxxxxxxxxxxx~~/I sentence him to undergo R.I. for two years ~~xxxxxxxxxxxxxxxxxxxxxxxxxx~~ ~~and to one year's R.I. under Sec.297/149 and 448/149 I.P.C. respectively.~~ The sentences will run concurrently.

A-5 Syed Hussein:

59 He is 35 years of age and a 'popper-mint' vendor residing near the B.H.P. Lines. His name also appears in the F.I.R. There is very strong evidence against him. P.W.18 Subedar Sanaulla, P.W.21(John P.C.), P.W.61 Ningiah, P.W.68 Ahmed Khan, P.W.72 S.I. Laxman and P.W.73 Subbanna speak to his partici-

participating in the rioting. A-5 merely states that he had boils and was in the house that night but there is no proof of this. There is credible evidence that he was participating in the riot. The evidence against him is that he was rushing from side to side pelting stones and brickbats on the church and the fire engine. He would be liable for charges I,II,IV,V,VIII and XIV. Five of the assessors are of opinion that he is guilty of the above charges. The others also are of opinion that he is guilty but only under four charges. Agreeing withe view of the majority I find him guilty of offences under Sections 147,295/149,297/149, 448/149,332/149 and 427/149 I.P.C. and convict him of these offences. I acquit him of the other charges. He is sentenced to 2 years' R.I. for each of the offences under Secs.147,295/149,332/149 and 427/149 and to one year's R.I. for each of the offences under Secs.297/149 and 448/149 I.P.C. The sentences will run concurrently

A-6 Mr. Seniulla:

60. He is aged 35 and is employed in the Railway Workshops at Mysore. He is living with his brother Subedar Seniulla(P.W.18) in the P.R.P. Lines. The evidence against him consists of : that of P.W.s 12 Ramarao P.C., 51 Minglah P.C., 56 Vet. Insp. Mannas. The first two know him and name him, while the third has seen him previously and identifies him. Vet. Insp. Mannas lives in a house opposite the church and facing east. It has a balcony ~~in the~~ upstairs from which he says he was looking at the incidents in the church. He definitely identifies this accused as running on the road crying out "Panika Motor Rokko" i.e.,- "Stop the fire engine" and that A-6 was one of those that obstructed the fire engine at the tap in the northwest corner of the church. Mr. Mannas is an official in the

the Municipality. He is not a Roman Catholic and cannot be said to have been interested in this church. He is not connected in any manner with the police either and there is no reason at all to discredit his testimony. He has no motive to implicate this accused falsely. The defence is that this accused was staying in the house and did not come to the church. When P.W.18 Subedar Sanaulla came to the church with his contingent at about 10 p.m. (P.W.18 states) he found his brother A-6 at home. Subsequently when P.W.18 went home again after the rioting at about 3-30 a.m. he found his brother in the house. It is also stated by the accused that some constable came and took his hat to give it to the D.S.P. as his hat had been knocked off in the crowd. Granting all this is true it is not impossible for him to have come to the church by about 12 in the midnight after his hat was taken by the constable. The P.R.P. Lines are about a furlong from the church and it is very likely that he came to the spot after the constable came and took his hat. The evidence against him is credible and strong. He is said to have thrown stones and to have obstructed the fire engine. He would therefore be guilty of offences under charges I, VIII and XIV. All the assessors except one are of opinion that he is guilty of one or more of the charges while one opines that he is not guilty. Agreeing with the majority view I find him guilty of offences under Sections 147, 332/149 and 427/149 I.P.C. I convict him of these offences and acquit him of the other charges. I sentence him to two years' R.I. for each of the offences under Secs.147 and 332/149 I.P.C. and to one year's R.I. under Sec.427/149 I.P.C. The sentences will run concurrently.

61 A-7 Syed Ibrahim:

He is 40 years old and an electric line-man in the

the Mysore Power and Light Office and lives in Irnagere. This accused's name was not mentioned to the investigating officer by any of the constables at the roll call on the 11th Jan. The investigating officer got information on the 13th that a man named Syed Ibrahim had received a bullet injury. A-7 was found on the 14th and sent to the K.R.Hospital. His name was entered in the list of accused by the investigating officer only ~~x~~ on the 17th. It is evident that his name came to be on the list of accused merely on the bare inference that he must have been in the mob since he had received a bullet wound. P.W.26 Seshiengar identified him only in the hospital and did not mention him at the roll call. ~~49xtbx~~ P.W.49 Laxmiah did not name him in the committing Magistrate's Court. P.W.50 Mallikarjunia does not know his name and did not mention about him at the roll call. P.W.66 Aralappa states that he gave his name to the investigating officer, but this is false. The defence is that A-7 had been posted for duty that night at the Staff Quarters, that after finishing his duty there he was going home at about half past 12 and while coming near the Aswatl katte in the northwest corner of the church he received a bullet shot . P.W.57 Line Inspector Rangarao states that A-7 had been assigned duty from 6-30 p.m. till 10 p.m. on 10-1-37 at the Staff Quarters and that he was ~~x~~ on duty till 10 p.m. D.W.3 Krishniah tho is an operator states that A-7 had been instructed to attend to the lights etc. at the Staff Quarters till the guests there went to bed. The guests of the ~~x~~ Y.M.C.A. World Conference which was held in Mysore at that time were lodged in the Staff Quarters. As he had to stay till all the guests went to bed it is not ~~impossible~~ improbable that he left the place late and was coming home after midnight. The defence appears to be credible. The very fact that ~~one~~ none of the prosecution wit-

witnesses named him at the roll call shows that they could not have seen him at the riot and there is a mistaken identity. There is also the corroborative fact that he could not have been in the mob and that he must have been fairly far away. A bullet had pierced through the forehead but had got imbedded at the bone and had not pierced the skull. This would indicate that the bullet had spent much of its force by the time it hit him. The place where it hit him is such that if the bullet had pierced through, it would have been fatal and it is purely providential that he survived. It is very probable therefore that he was at the AswathKatte when the bullet hit him and this is at some distance from the place where from one of the P.R.P. sections fired. The benefit of doubt is therefore given to A-7. All the assessors are of opinion that he is not guilty of any charge. I agree with them and find him not guilty and acquit him of all the charges.

A-8 Md. Ibrahim alias Baba:

62 He is aged 35 years and a tonga driver in Irnagere. His name is found in the F.I.R. He is mentioned as having been seen in the rioting by P.W.24 Gundiah P.R.P. constable, P.W.27-daffedar Sivaprasad, P.W.52 Brookes P.C. and P.W.73 Ins.Subbanna and he is known to these people. There is no reason to disbelieve them. A-8 says that he had gone to Yedatore to bring horses, but there no evidence in support. He is stated to have been throwing stones and brickbats on the church and on the police and trying to rush in. He is guilty of charges I,II,IV,V,VIII and XIV. Three of the assessors are of opinion that he is guilty of the above charges, two that he is guilty of only charges I,II,IV and V and two others that he is guilty of charge I. I find him guilty of offences under Secs.147,295/149 297/149,448/149,332/149 and 427/149. I convict him of these offences and acquit him of the other offences. I sentence

sentence A-8 to undergo two years' R.I. for each of the offences under Secs.147,295/149,332/149 and 427/149 and to one year's R.I, for each of the two offences under Secs.297/149 and 448/149 I.P.C. The sentences will run concurrently.

A-9 Abul Hussain alias Saba:

63. He is aged 24 years and is working in a Beedy Godown and lives in the Police Lines. His name is also found in the F.I.R. P.W.23 Seethiah P.R.P. constable P.W.42 Ramarao P.C., P.Ws.49 Chtrasingh P.C., 72 S-I. Laxman and 73 Ins/r Subbanna mention that he was present in the rioting. There is a separate charge against him under Sec.332 I.P.C. for causing hurt to S.I. Laxman. I have already observed that there is no evidence in corroboration of S.I. Laxman's evidence as regards this accused causing him hurt. He is given the benefit of doubt, am is acquitted of that charge. There is one other witness who has merely identified him. The evidence of all the other witnesses amply proves that he participated in the rioting and there is no reason to disbelieve them. A-9's plea is that he had gone to Malur on the night and returned on the 13th Jan. and that he was at Malur all that time. His father D.W.49 who is a P.C. has been examined. A-9 appears to have written a letter to his father from Malur and this letter has not been produced. His father now says that he searched for it and could not find it. The accused was arrested on the 15th and his father who is a P.C. must have been aware that the letter was very valuable evidence proving the alibi of the accused He must have preserved it if the story were true. The plea of alibi is not established and there is ample evidence against him. He is said to have been throwing stones and brickbats on the church and the fire engine. He would therefore be liable for charges I,II,IV,V,~~VIII~~ and XIV.

The

The assessors are unanimously of opinion that A-9 is guilty of charges I,II,IV and XIV and some of the assessors add one more charge. I find him guilty of offences under Sections 147.295/149.297/149.448/149.~~332/149~~ and 427/149 I.P.C. I convict him of these offences and acquit him of the other charges. I sentence him to undergo R.I. for two years for each of the offences under Secs.147,295/149,~~332/149~~ and 427/149 I.P.C. and to one year's R.I. for each of the offences under Sec.297/149 and 448/149 I.P.C. The sentences will run concurrently.

A-10 Abdul Sammad alias Basha:

64 He is aged 40 years and is a snuff seller in Kantharaj-Urs' Park. His name is found in the F.I.R. P.W.28 Rachiah-P.C. P.W.s44 Sivanaŋjiah P.C., 75 Erayya P.C., 72 S.I. Laxman and 73 Insp. Subbanna all speak to his taking part in the riot. There is no reason at all to disbelieve any of these witneses and there is strong evidence against A-10. He has pleaded that he went on the 7th to Satyagala near Periyapatna for purchasing tobacco and returned to Mysore on 12th. D.W.23 Puttiah speaks to the accused having come to Satyagala to purchase tobacco from him. The story is that the tobacco was worth Rs.100/- and odd, that A-10 paid him Rs.100/- on the 10th and took the receipt Ex.D.22, that he promised to pay the balance subsequently and took the tobacco. D.W.24 Channabasappa is an attestor of the receipt. Not very much value can be placed upon evidence of this sort. The payment of Rs.100 and the taking of a receipt for the purchase of tobacco from Puttiah are not mentioned in the statement made before the Magistrate. Apart from this, even if it be true that he did go there and purchased tobacco, the transaction finished at about 4 p.m. on Sunday 10th when the receipt was written. But the story is that he stayed there till next morning. D.W.23 says that he left at 9 a.m. for Mysore on Monday morning while D.W.24 says that he left at 2 p.m. on Monday for Periyapatna. Since

Since the transaction finished at about 4 p.m. he could very easily have returned by Bus from Periyapatna and there was no necessity or reason for him to stay at Satyagala for the night and it is very likely that he came to Mysore on Sunday evening itself. There is ample and reliable evidence in regard to his complicity. He is said to have thrown stones and obstructed the fire engine. He will be guilty of charges I,VIII and XIV. Four of the assessors have been of opinion that he is guilty of charges I,II,IV,V,VIII and XIV. One of them opines that he is guilty of charges I,II, IV and VIII, two that he is not guilty. I find him guilty of offences under Secs.147. 332/149 and 427/149 I.P.C. I convict him of these offences and acquit him of the others. I sentence him to undergo R.I. for two years for each of the offences under Secs 147. 332/149 and 427/149 I.P.C. The sentences will run concurrently.

A-11 Abdul Waheem:

65 He is of 30 years of age. He keeps a Beedi shop in Lashkar Mohalla. The witnesses who refer to him are P.W.s 27 Sivaprasad, P.W. 37 Rangiah, P.W.60 Rayasundaram and P.W.62 Ahmad Khan. Of these P.W.60 has only identified him and P.W.62 has made wrong identification in respect of the accused. The evidence against him is rather meagre. Further, he pleads that he and A-12 Md. Akbar had gone for a marriage in his sister's house which is behind the old City Magistrate's Court and that they were there till early morning D.W. 1 Md. Ali says that these accused attended the marriage in his house on the 10th night and assisted him in serving food and feeding went on till about 3 A.M. Ext. D. 17 is the invitation card issued by him. D.W.2 Md. Shamsudin who is a Desh Imam and who is the father of the bride also speaks to the presence of A-11 and A-12, at the marriage and the feeding that went on till after midnight. The defence evidence appears to be credible and as the prosecution evidence also is week, the accused will be given the benefit of

of doubt. All the assessors are of opinion that this accused is not guilty Agreeing with unanimous opinion of assessors, I find him not ~~guilty~~ guilty and ~~acquit~~ acquit him of all the ~~charges~~ charges.

66 A-12. Md. Akbar.

He is of 35 years of age. He is a cycle shop keeper in Irnagere. The only witnesses that mention him are P.W. 26 Seshiengar, P.W.41 Javariah, P.W.66 Aralappa. P.W.41 Javariah is a very unreliable witness as he has stated in this Court that he actually saw one of the accused set fire to the sheds, though he mentioned no such thing in the Magis-trate's Court. P.W.66 Aralappa is a Roman Catholic and may be somewhat biassed. One other witness P.W. 69 Siddiah has referred to this accused. But he does not know his name and is not acquainted with him. Further, this witness wrongly identifies A-9 and A-22 in this Court and no reliance can be placed upon this identification. The evidence against this accused is very meagre. As observed above with reference to A-11, this accused is said to have gone with A-11 to the marriage and the defence appears to be credible. This accused will also be given the benefit of doubt. The assessors unanimously are of opinion that he is not guilty. Agreeing with the view expressed by the assessors, I find the accused Md. Akbar not guilty and acquit him.

67 A-13. Ameer Jan:

He is 38 years of age. He is a Cycle shop-keeper in Irnagere. The evidence against him consists of statements of P.W.26 Seshiengar, P.W.41 Javariah, P.W.64 Krishniah P.W.63 Subba Rao, P.W.72 Laxman (S.I.). The evidence of P.W.41 is not credible and P.W.63 is not able to name him. The plea of the accused is that he went to Mandya with D.W.13 Hyder Khan, D.W.12 Abdul Rahim to attend a post-marriage function of his brother-in-law and returned to Mysore on the 11th evening. The plea is supported by the evidence of D.W.s

D.Ws. 11 and 12. D.W.-12 Abdul Rahim is retired Revenue Official of Coorg and unconnected with the accused. He is an old man of 78 years of age and is unlikely to give false evidence to support the accused The defence appears to be credible and the accused is given the benefit of doubt. The assessors are unanimously of opinion that he is not guilty. Agreeing with their view I find accused-13 Ammer Jan not guilty and acquit him of all the charges.

68. Accused-14 Khader Khan.

He is 30 years of age. He is a cycle stand contractor at Krishna Cinema and reside in Mandi Mohalla. P.W.-18 Sannulla, P.W.-25 Venkoba Rao, P.W. 34 Madiah, P.W.-47 Anthony, P.W.-75 Eriah state that they saw him participate in the riot. All of them know him well: Three of them know his name also. There is no reason to disbelieve the prosecution evidence against him. He pleads that he was at the cycle stand at the Krishna Cinema till the 2nd show was over and slept there that night as usual. It is not doubt true that he is a contractor of the cycle stand at the Krishna cinema, but the question whether he slept there that night is to be considered. D.W.-17 who has sublet the contract to him says that he slept there that night. D.W.-29 clerk of the cinema states that it was usual for the accused to stay there till the second show was over. The second show finishes at about 12-15 or 12-30 A.M. This witness merely speaks to the practice. He had no special reason to know on the 10th if the accused stayed there till the end and if he slept there. He also admits that if the accused is unable to come somebody else is deputed on his behalf to look to the cycle-stand. Even granting that the second show closed at 12-15 A.M. there was time enough for accused-14 to have come to the church and to have been taken part in the rioting. The so called alibi which has been set up is not such as would militate against the case of his presence in the rioting. The defence is not believable. There is sufficient evidence

the accusation of this charge
-71

the rioting. He is said to have thrown stones on the [illegible] and pacris quarters and on the policemen and also on the fire engine. He is liable for charges I,II,IV,V, and XIV. There is a specific charge against him of having caused hurt to P.W.-47 Anthony. As observed already there is no corobotation of this and he has to be acquitted of this charge. The assessors are of the opinion that he is not guilty. I do not agree with the opinion of the assessors and I find him guilty of offences under section 147, 295/149, 297/149, 427/149 and 448/149 I.P.C. and I convict him thereof. I acquit him of the other charges. I sentence him to two years R.I. for each of the offences under section 147, 295/149 427/149 and to one year's R.I. for each of the offences under section 297/149,448/149 I.P.C. The sentence will run concurrently.

Observed already there is no corroboration of this and he has

69. Accused-15 Abdul Raheem alias Jani.

He is aged 32 years. He is a petty shop-keeper and reside near Kantharaja Urs park. The witnesses who refer to him are P.W.-18 Sannulla, P¾W¾-27 Sivaprasad, P.W.- 62 Ahmad-Khan. Of these, P.W.-50 and P.W.-60 merely identify him and are not acquainted with him. P.W.-62 names him as Sattar Khan and has not identified him in the Magistrate's court. The evidence against him is thus weak He pleads that on the 10th evening his marriage took place at Kannambadi that night and he was there and not in Mysore. D.W.-5 Md. Usman who is a Pesh Imam performed his Nika at Kannambadi. Exhibit-D-19 is the entry in the Nika Register. (D-19-a) is the invitation issued for the marriage. D.W.-6 Safdar Hussain was the vakil of the bride and he has also signed the Nika Register. He speaks to the stay of A-15 at Kannambadi on the 10th night. The evidence is that - these witnesses went from Mysore in the Tonga of A-42 Md. Amir to Kannambadi that evening. The marriage is support d by documentary evidence and also by the evidence of respectabl witnesses. It is very probable that A-15 and A-42 stayed there that night and that the witnesses returned to Mysore in the same Tonga of A-42 on the morning of the 11th. The prosecution evidence is weak and A-15 and A-42 should be give the benefit of doubt. The assessors are unanimously of opinion that A-15 is not guilty. I agree with them and find the accused not guilty and acquit him of all charges.

70. Accused-16. Abdul Aziz.

He is 18 years of age. He is a sweetsVendor near the provincial Reserve Police lines. P.W.-18 Sannualla, P¾W.72 Laxma (S.I.) P.W.-75 Eriah, state that he participated in the riot. All these six witnesses are acquainted with the accused/and know by name. There is therefore no doubt

doubt about his identity. He says that he cannot see well at night, and he slept at home and did not go to the church He can see well in the day time. There is nothing very wrong with him and it is possible that he is somewhat short-sighted. There is no serious deffect with his eyes which would have made it impossible for him to go to the sceneof occurence. It is very unlikely that the police would foist a false case against a street hawker of the weet meats. The evidence against him is strong and there is no specific defence either. Four of the assessors are of opinion that he is not guilty and two others find him guilty of four charges and one of one charge. I cannot agree with the opinion of the majority of the assessors. The evidence against this accused is of six witnesses who were acquainted with him and knew him by name. He is said to have been throwing stones on the fire engine and rushing into the church. P.W.-38 states that he found this accused on the northern side where the sheds were set on fire. He would be liable to charges 1,2,4,5,6,8 and 14. ~~four assessors are of opinion that he is not guilty and three that he is guilty of some charges.~~ I find him guilty of offences under Secs. 147,295/149 I.P.C. 297/149,448/149332/149,427/149 I.P.C. and 435/149 I.P.C.

~~24.~~ But he is an young boy of 18 years of age and appears to be an emaciated weakling. Under these circumstances a sentence of one year's imprinsonment will be enough. I find him guilty of all the offences mentioned above and sentence him to one year's R.I. for each of the offences other than the one under Sec. 435/149. I respect of of the offences under sec. 435/149 I sentence him to undergo one Year's R.I. and a fine of Rs.25/- and in default to suffer one month's R.I. The substantive sentences will run concurrently.

I acquit ~~xxxxxxx~~ him of the other charges.

Accused-17.-Abdul Rahim.

He is a Tonga Driver. He resides in Bara Imam Road. Only two witnesses P.W.-18 and P-W--27 refer to him. The evidence againt him is quite insufficient. Six of the assessors are of opinion that he is not guilty, while one ~~xxxxxxxxxxxxxx~~ considers that he guilty of some charges. Agreeing with the - majority I find him not guilty and acquit him of all the charges.

72. Accused -16 Abdul Rahiman.

His age is 26 years and he is a Beedi shop keeper in Mandi Mohalla. The evidence against him consists of that of P.Ws-26,43,50 and 52. One of these cannot name him while the other name him. He states that he went to Hebbadi Hindi along with other friends on the evening of 10th January in the Jutka of accused-38 to attend the Fathha that was performed at the house of D.W.-8. He stayed there the whole of that night and returned to Mysore the next day. This is supported by the evidence of D.W.-9,D.W.-9 and D.W.-10. They all speak to the stay of Accused-18 and accused 38 on the 10th night at Hebbadi Hundi. It cannot be said that the prosecution evidence is in any way superior to that of defence. The two accused will have to be given the behefit of doubt. Six of the assessors are of opinion that he is not guilty while one considers thathe is not guilty while one considers that he is guilty of four-charges. Agreeing with the majority of the assessors I find the accused not guilty and acquit him of all the charges.

73. Accused-19 Ibrahimkhan alias Dewan.

The accused is aged 45 years and he is a milk-seller in Kamani Darvaja. Four witnesses namely P.Ws.-30,31,62 72 speak to his presence. Of them P.W.-62 has made wrong identification of another accused. Much reliance cannot be placed on this identification. This accused pleads that he was staying at home on the 10th night listening to the reading of religious books. D.W.-32 Md. Peer and D.W.-33 Syed Mohammad speak to his staying at home that night, . The accused is an aged man having a large family and he appears to bea a sober minded fellow. It is unlikely he joined in the riot and I would give him --

him the benefit of doubt. The assessors are unanimously of opinion that he is not guilty. ~~Agreee~~ Agreeing with their view I find him not guilty & acquit him of all the chagges.

74. Accused-20 Yasim Sheriff alias Sunna:

He is aged 26 years and is a sepoy in the Palace Infantry There are seven witnesses for the prosecution who speak to his complicity in the riot and these are P.Ws.- 38,40,45,62 64,65 and 72. Except 64 and 65 all the others are acquainted with him and know him by name. P.W.-65 also knows him well as he himself is a bugler in the Palace Infantry though he does not know his name. P.W.-65 says that while he was passing near the church from his father-in-law's house Accused-20 caught him by the shirt. There is very strong and realiable evidence against this accused in regard to his participation in the rioting. A-20 sets up a defence that he had gone that day to Ganjam near Sreerangapatam for purchase of a cow. D.W.-42 says that this accused came to him to see his cow. D.W.-43 is said to have accompanied this accused. They are said to have seen the cow at about 7 P.M. But still it is stated that they slept in a dilapidated 'Garadi' at night. This is not easily believable. Such a large number of carts pass between Seringapatam and Mysore and there are also Buses the fare being a few annas. The story is that they went walking and returned walking. It is highly incredible that if the transaction had finished at 7)'clock they would have kept on there at night doing nothing. While D.W.-42 says that the accused did not purchase the cow on the ground that it had a bad 'Suli'. D.W.-43 states that the cow was not purchased as they could not hit off the price. Apart from the discrepancy in the defence evidence there is one fact which the defence get over. According to the evidence the accused was away in Ganjam the whole of Sunday the 10th and returned to Mysore on the evening of the 11th only. As he is a sepoy in the palace Infantry it would have been--

been possible for him to go away without obtaining leave. Ifhe had obtained leave this would have been noted in the registers of that office. Even if he had gone away witout permission he would have been noted as absent without permission in the registeres and further disciplinary action would have been taken against him for absenting witout permission. In any case there would be some record of his absence in the office of his Battallion and no such record has been summoned. The defence is entirely unrealiable. The evidence against him is that he was pelting stones and rushing into the church-compound pushing the constable P.W.-40. He is liable for charges I II IV V VIII and XIV. Five of the assessors are of opinion that he is guilty of the above charges and two others that he is guilty of charges I II IV and VIII. I find him guilty of offences under sections 147,295/149,297/149,448/149 332/149 and 427/149 I.P.C. I convict him of these offences and sentence him to two year's R.I. for each of the offences under Secs. 147, 295/149,427/149 and 332/149 I.P.C. and to one year's R.I. for each of the offences under sections 297/149 and 448/149. The sentences will run concurrently. I acquit A-20 of the other charges.

75. Accused-21 Syed Ziauddin alias Basha.

P.Ws-23,28,37,41 and 72 speak to the participation of this accused in the rioting. P.W.-41 is not believable insamuch as he states that this accused set fire to a shed which is not stated in the committing Magistrate's court. But other witnesses are acquainted with him and three of them know him by his name also. There is no reason to discredit the testimony of these witnesses. A-21 has set up ~~fixxx~~ no specific defence. He is said to have been shouting and throwing stones and bamboos on the church and the police. He would be liable for charges I II IV V VIII and XIV. Four of the assessors are of opinion that he is guilty of the above charges, two that he is guilty of --

of charges I II VI and XIV only, while another that he is not guilty. I find him guilty of offences under section 147 295/149,297/149,427/149,448/149 and 332/149. I convict him of these offences and sentence him to two year's R.I. for each of the offences under section 147, 295/149,427/149 332/149 I.P.C.and to one year's R.I. for each of the offences under section 297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit accused-21 of the other charges.

76. Accused-22 Abdul Sattarkhan alias Sattar.

He is a petty shop keeper in Kantharaja Urs park. Only three constables namely:- P.Ws-18,20 and 25 speak to his connection with the rioting. There is one other Parivar-witness P.W.-71 but he merely identifies him and does not know him. No reliance can be placed on his testimony The prosecution evidence against this accused is rather weak. This accused states that he had gone to Arsikere for the betrothel ceremony of his brother. D.W.-21 who is the father of the girl betrothed and D.W.-22 speak to the presence of the accused at Arsikere and that he stayed there that night. The defence appears reliable and the prosecution evidence is weak. The accused will be given the benefit of the doubt. All the assessors consider that he is not guilty. I find him not guilty and acquit him of all the offences.

77. Accused-23 HyderBeig.

This accused is 40 years old He is a tonga driver in Lashkar mohalla. There are 6 witnesses that speak to his complicity in the rioting and these are P.Ws.- 23,33,35,50, 67 and 68. P.W.-67 merely indentifies him, but the other five witnesses know him and there is no reason to discredit their testimony. He has no specific defence, but merely states that he wss not there, A curious incident appears to have happened. Sub Inspector Ram-achandran when he was going to the telephone, was surrounded by a mob of Mahammadans and was belabourd in the belief that he was a christian. A-23 who was also with them and

and who knew the Sub Inspector as a railway Sub Inspector appears to have observed that he was a Brahmin and not a Christian. In proof of this Ramachandran had to show to the crowd his 'Yegnopavitham' and they let him off. This incident clearly shows that there can be no doubt about the identification of this accused by S.I. Ramachandran. It cannot be said that he was not a party to the rioting. In fact he was the man that commenced to belabour S.I. Ramachandran. This very fact that these people belaboured the Sub Inspector in the belief that he was a Christian shows that they did intend to cause hurt to Christians. There is strong evidence against this accused and he is said to have been pelting stones and throwing bamboos and to have obstructed the fire-engine. He would be liable for charges I, VIII, and XIV. Four of the assessors are of opinion that he is guilty of charges I, II, IV, V, VIII and XIV, one that he is guilty of charges I only, one other that he is guilty of charges I and XIII and one considers he is not guilty. I find A-23 guilty of offences under Sec.147, 332/149 and 427/149. In view of the fact that he had the good sense to save the life S.I. Ramachandran though being a party in the rioting, I consider that he might be dealth with somewhat leniently by awarding only one year's imprisonment in all. I convict him of the offences stated above and sentence him to one year's R.I. for each of the offences under Sec.147, 427/149 and 332/149 I.P.C. The sentences will run concurrently. I acquit A-23 of the other offences.

A-24 Abdul Sattarkan.

78. This accused is aged 25 years and is a petty shop-keeper in Narasimharajamohalla. P.W.s 28, 32, 36, 40 and 58 speak to his participation in the riot. The first two are not able to name him. He has pleaded that he went to Bangalore for certain ceremonies on the 8th and returned on eht 12th. The ceremonies are the 'Muktha' and 'Katna' ceremonies of the sons of D.W.25, Ex.D.23 is

is the invitation letter that was issued by him. The ceremonies themselves were on the 10th. The presence of ths accused, at the ceremonies and in Bang lore till the 11th is spoken to by D.W.25, and D.W.26 both being very respectable persons. D.W. 26 is a resident of Ananthpur District and un-connected with the accused. There is no reason why he should be -- deposing falsely. Further D.W.27 is the land-lord of the accused and he states that he had gone to his shop for collecting the rent on the 10th and was told that A-24 had gone to Bangalore. The invitation Card also shows that the ceremonies did take place there on the 10th and it is very likely that the accused who is a first cousin of the boys concerned in the ceremonies attended the function. The defence appears to be very reliable and I would give the benefit of doubt to this accused. The assessors have been of the unanimous opinion that this accused is not guilty. Agreeing with them I find A-24 is not guilty and acquit of all the charges.

A-25 Abdul Azeez.

79 He is aged 32 and is a cattle Dallali in Mandi Mohalla. The evidence against him only that of P.W.27 and P.W. 54. P.W.70 only identifies him. According to his evidence he was at a distance of nearly 1 furlong and a half from the spot, and so it is impossible to say that he was able to identify any one during the night. This accused has pleaded that he had gone to Naganahalli on the 10th in connection with a panchaythi regarding his brother's wife who had been taken by her father-D.W.37. This is spoken to by D.W.37 who says that the accused stayed there that night. D.W.32 also speaks to A-25's presence there on that night. The defence appears reliable and the prosecution evidence is very deficient. I would give the benefit of doubt to this accused. Six of the assessors are of opinion that he is not guilty and one considers he is guilty. Agreeing with the majority I find A.25 is not guilty and acquit him of all charges.

80 A-26 Abdul Khuddus.

A-26 Abdul Khuddus is aged 36 and is a peon in the Railway Traffic Manager's office. P.W.s21, 29, 41, 50, 52, 63, all speak to his complicity in the rioting. Even if P.W.41 is not believed, there is ample and reliable evidence against this accused. He has no specific defence. He is said to have thrown stones on the church and the Police and to have attacked the fire engine. He would be liable for charges I, II, IV, V, VIII and XIV. Five of the assessors are of opinion that he is guilty of the above charges while two consider that he is not guilty. Agreeing with the majority I find him guilty of offences under Sec. 147, 295/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. I convict him for these offences and sentence him --- to two years' R.I. for each of the offences under Sec.- 147, 295/149, 427/149, and 332/149 I.P.C. and to one year's R.I. for each of the offences under S.297/149 and 448/149. The sentences will run concurrently. I acquit A.26 of the other charges.

A-27 Ameerkhan.

He is aged 24 and is a bullock cart driver. P.W.s 21, 32, 35, 46, 53 and 58 speak to his complicity in the riot as also P.W.70 a Parivar witness. There is very strong evidence against this accused. The witnesses most of them know him by name also and are reliable. This accused has no specific defence. He is said to have been pelting stones at the windows and doors of the church and on the police. He would therefore be liable for charges I, II, IV, VIII and XIV. 6 of the assessors are of opinion that he is guilty of the above charges but one opines he is guilty of charge I only. I find the accused (A-27) guilty of offences under Sec.147, 295/149, 297/149, 427/149, 448/149 and 332/149 I.P.C. and I convict him of these offences. I sentence him to two years' R.I. for each of the offences under Sec. 147, 295/149, 427/149 and 332/149 I.P.C. and to one year's R.I. for each of the --

the offences under Sec. 297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit A-27 of the other charges.

A-28 Ahmed Sab:

§ 2 P.W.s 30, 37, 39 59 and 63 speak to his complicity in the riot. Two of the witnesses are unable to name him but they are all consistent to this point. There is no reason to discredit these witnesses. A.28 has pleaded no specific defence. He is said to have thrown stones on the church, the Padri's quarters and the fire engine. He would be liable for charges I, II, IV, V, VII and XIV. Four of the assessors are of opinion that he is not guilty while three consider that he is guilty of charge I only. I do not agree with the opinion of the majority of the assessors. I find him guilty of offences under Sec. 147, 295/149, 297/149, 448/149, 427/149 and 332/149 I.P.C. I convict him of these offences and sentence him to two years' R.I. for each of the offences under Sec.147, 295/149 427/149 and 332/149 I.P.C and to one year's R.I. for each of the offences under Sec. 448/149 and 297/149 I.P.C. The sentences will run concurrently. I acquit A-28 of the other charges.

A-29 Azeezullasha.

§ 3 He is a fakir in Mandi Mohalla. P.W.s29, 34, 38, 52 and 59 speak to his complicity in the riot as also P.W.70 a parivar witness. P.W.29 states that A-29 hit him and caused injury. I have already observed that A-29 is to be given the benefit of doubt in regard to this particular charge and has to be acquitted of that offence. As regards the charge of rioting there is ample and reliable evidence. He merely states that he did not go to the spot. As he is a mere mendicant it is very unlikely the police would have put up a false case against him. He is said to have thrown stones on the church and the police and attacked the fire engine. He would be liable for charges I, II, IV, V and XIV. There is a specific charge against him under Sec.332 I.P.C. for having hit P.W.29. ~~I have already~~ And as observed above

~~that~~ as there is no corroboration he has to be acquitted of this charge. Four of the assessors are of opinion ~~xx~~ that he is guilty of charges I, II, IV, V and XIV and another that he is guilty of charge I and XI and a third considers he is not guilty. I agree with the opinion of the majority and find him guilty of offences under Sec. 147, 295~~/148~~ read with S.149, 197/149, 448/149 and 427/149 I.P.C. I convict him for these offences and sentence him to two years' R.I. for each of the offences under Sec.147, 295/149, 427/149 I.P.C. and to one year's R.I. for each of the offences under Sec. 297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit A-29 of the other charges.

A-30 Dastagir Sab.

84. He is a beedi shop-keeper in Mandi Mohalla. The witnessess that refer to him are only three, namely P.W.s 18, 39 and 51. P.W.18 did not identify him correctly in this Court but subsequently he picked him out as one of the persons seen by him. But he calls him Manna Ameer. There is evidently a mistake in identity. The evidence aginst him is very weak. He has pleaded that he and A-41 went to a Fatheha in Amer Jan's house and that they were there till 4 a.m. on the 11th. This is spoken to by D.Ws.28, 30 and 41. The prosecution evidence is not very much superior to that of the defence and the accused has to be given the benefit of doubt. All the assessors are of opinion that he is not guilty. Agreeing with their opinion I find A-30 not guilty and acquit him of all charges.

A-31 Sab Jan:

85 He is aged 41 years and a horse dallali living in Lashkar Mohalla. P.W.29, P.Ws.30, 31, and 61 depose to his presence in the rioting. Of these P.W.61 is not able to name. He pleads that his wife was very ill and was an in-patient in the K.R.Hospital since some days prior to the 10th Jan. She has four children of whom the youngest was about 8 or 9 months old at the time of the incident. He was taking his baby every night to the hospital to show it to the mother. On the 10th night as the baby was crying very much he took it to the hospital at about 10 or 10-30 P.M. to show it to the mother and get it pacified. The hospital gates were locked and so he could not get admission and came back with the baby about midnight, and then stayed at home. These facts are spoken to by D.Ws.18, 19 and 20. P.W 20 is his sister and she was also in the hospital attending upon his wife. The defence appears to be true and there is no reason to discredit the evidence of these witnesses. As his wife was ill lying in the hospital and as he had young children including a baby at home it is very unlikely that he would have left them alone and gone to mix up in the rioting. The evidence against him is not very strong and the defence appears t be believable. He will therefore be given the benefit of doubt. The assessors are unanimously of opinion that he is not guilty. Agreeing with their opinion I find him not guilty and acquit him of all the offences.

A-32 Sattar Khan:

86 This accused is 38 years of age and a tonga driver in Idiga. There are six witnesses that speak to his participation in the rioting and they are P.Ws. 27, 32, 43, 44, 54 and 68. Except P.Ws.32 and 68 who know him but who are not acquainted with his name, all the others know him as also his name. The evidence is strong against him and there is no reason to disbelieve the presecution witnesses.

There

There is no special defence pleaded by him except that he did not go there. The evidence is that he was throwing stones ~~and~~ at the church and was also shouting and beating with bamboos. P.W.43 states that this accused assisted in heaping bamboos near the door to set fire. The accused will therefore be liable for charges I, II, III, IV, V, VIII, and XIV. Five of the assessors are of opinion that he is guilty of charges I, II, IV, V, VIII, and XIV while one is of opinion that he is guilty of charges I, II, IV, and XIV only. One of the assessors considers that he is guilty of charge III also. Since there is evidence that he was assisting that portion of the mob which was stacking bamboos against the door to set fire to it he is guilty of the offence of mischief by fire to a building which is used as a place of worship under Section 436 I.P.C. read with Sec.149 I.P.C. I find A-32 guilty of offences under Sec.147, 295/149, 297/149 448/149, 332/149, 427/149 and 436/149 I.P.C. I convict him of these offences and acquit him of all the other offences. I sentence him to two years' R.I. for each of the offences under Sec. 147, 295/149, 332/149 and 427/149 and to one year's R.I. for each of the offences under Sec. 297/149 and 448/149, ~~332~~ and to 2 years R.I. and a fire of Rs.50/- in default to three months R.I. for the offences under S.436 read with 149 I.P.C. The substantive sentences will run concurrently.

A-33: Gulam Rasool:

87 This accused is aged 26 and is a bullock cart driver in Kamani Darwaja. The witnesses against him are P.W.s 27, 35, 45, and 53. P.Ws.34 and 53 are not able to name him. His defence is that he was not in town on the 10th night and that he had gone to Kadakola on the 9th and returned to Mysore on the 12th. D.W.39 says that the accused had come to Kadakola to see a boy of their who was ill. As the boy died on Monday the accused stayed there till Tuesday and then returned to Mysore. That this accused was in Kadakola on Sunday night

and

and slept there is spoken to by D.W.40. He is unconnected with the accused and there is no sufficient reason to disbelieve him. The prosecution evidence is weak and his defence is credible. He will be given the benefit of doubt. The assessors are of unanimous opinion that he is not guilty. Agreeing with them I find him not guilty and acquit him of all the charges.

A.34: Basheer Ahmed:

This accused is 32 years of age and is a beetel leaf seller in Irnagere. This accused is stated by 6 witnesses to have participated in the rioting. These witnesses are P.Ws.25, 26, 31, 32, 48 and 58. All these have known him previously. Three of them know his name and the other three are unable to name him. The evidence against him is very strong and reliable. A-34 merely pleaded that he did not go to the church that night and that he had no witnesses. But still he examined one witnesses D.W.42 who is his wife's maternal uncle. He states that the accused had come to his house for food at 9 or 9-30 p.m. and slept in his house till the morning. Very little reliance can be placed upon this evidence in respect of a defence which is not pleaded. Even if he had taken his food at 9 or 9-30 p.m. there it is not impossible for him to have come to the church which is 2 furlongs from this witness s house. The evidence is that he was pelting stones at the church and the Padri's Quarters and that he obstructed the fire engine. He is liable for charges I, II, IV, V, VIII, and XIV. Four of the assessors are of opinion that he is guilty of these charges and one that he is guilty of charges I, II, and V while two others hold that he is not guilty. Agreeing with the opinion of the majority of the assessors I find A-34 guilty of offences under Sec.147, 295/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. I convict

him

him of the above offences and acquit him of the other offences. I sentence him to two years' R.I. for each of the offences under Sec.147, 295/149, 332/149 and 427/149 I.P.C. and to one year's R.I. for each of the offences under Sec.297/149 and 448/149 I.P.C. The sentences will run concurrently.

89 A-35 Manna Ameer:

He is employed in a beedi factory. The evidence against him consists of that of three witnesses P.W.s 38. 66 and 75. P.W. 66 is a Roman catholic Christian and he may be biassed. The evidence against this accused is somewhat insufficient and he may be given the benefit of doubt. The assessors are of the unanimous opinion that he is not guilty. Agreeing with them I find him not guilty and acquit him of all charges.

A-36 Abdul Wahab.

90 He is a vendor of eggs. The evidence against him consists only of that of P.Ws.33 and 60. The latter merely identified him and does not know him. The evidence against him is very meagre. He states that he had gone to cook on the 10th night in one Salar Sab's house and was there till 4 a.m. on the 11th. This is spoken to by D.W.34 and D.W.35. The defence evidence seems to be better than that of the prosecution so far as this accused is concerned. He will be given the benefit of doubt. The assessors are unanimously of opinion that he is not guilty. Agreeing with their opinion I find him not guilty and acquit him of all charges.

A.37 Abdul Kareem.

91 This accused is a farrier in Kamani Darwaja. It was this accused that went with his brother P.W.37 to the Mandi Police station at about 9-15 p.m. on that eventful night to give the complaint that his brother and another boy had been taken into the church by a Christian and asked to look into the catacomb when they ran away. There are six witnesses for the prosecution to speak about his participation in the riot. P.Ws.25, 28,30,59,64 & 72 all state that this accused was in the mob and was

was pelting stones. P.W.72 speaks to the fact of this accused coming to the Station to give a compaint and also to his participation in the riot. The prosecution evidence is strong against this accused and there is no reason to disbelieve these witnesses. In fact this fellow appears to have been the cause of all the trouble. If the boy Md. Khasim is believed, the complaint that he carried to his brother was merely that some christian took him into the church and asked him to look into the catacomb. The matter appears to be very trivial and there does not arise any cause for grievance or complaint on account of this matter. But still this accused appears to have grossly exaggerated the whole thing and it looks probable that he must have spread the canard that Muhammadan boys were taken into the church for being sacrificed. As regards the acts committed by him at the rioting the evidence is that he was pelting stones and brickbats at the church and one the fire engine also. He is liable for charges I, II, III, IV, V, VIII and XIV. The assessors are unanimously of opinion that he is guilty of these charges. Agreeing with them I find him guilty of these offences under Sec. 147, 295/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. I convict thereof and sentence him to two years' R.I. for each of the offences under Sec. 147, 295/149 and 427/149, and to one year's R.I. for each of the offences under Sec. 297/149 and 448/149 ~~and to 2 years' R.I. for the offence under Sec. 332/149 I.P.C.~~ The sentences will run concurrently.

92. A-38 Chote Sab:

He is 38 years of age and is a tonga driver in Mandi Mohalla. The evidence against him consists of the statements of the P.Ws. 35, 36 and 42. P.W.35 does not appear to know him very well as he states that he is a bullock cart driver. A-38 has the same defence as that of A.18. The defence is that is that A-18 hired his tonga to

to go to Hebbadi Hundi on the 10th Jan. evening and that they remained there that night. This defence has been considered in connection with A-18 and has been held to be believable. The prosecution evidence against this accused is also insufficient. I give him the benefit of doubt agreeing with the unanimous opinion of the assessors that he is not guilty. I acquit him of all the charges.

A-39 Abdul Gaffor: alias Cheena.

93 This accused is aged 28 years and is a maker of beedies living in Mandi Mohalla. Five witnesses namely P.W.s 19, 20, 24, 27 and 75 speak to his part in the riot. There is no reason to disbelieve their evidence. They are all acquainted with him. His defence was that he had gone to French Rocks on the 10th at 7 a.m. and returned on Monday at 11 a.m. There is no proof of this. There is reliable and satisfactory evidence against him. He is said to have been making 'galata' at the northwest corner of the church pelting stones at the church and stones and brickbats on the fire engine. He is liable for charges I, II, IV, V, VIII, and XIV. Five of the assessors are of opinion that he is guilty of these charges, one that he is guilty of charge I only and another that he is not guilty. Agreeing with the majority I find him guilty of offences under Sec.147, 295/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. I convict of these offences and sentence him to two years R.I. for each of these offences and sentence him to two years' R.I. for each of the offences under Sec.147, 295/149, 332/149 and 427/149 and to one year's R.I. for each of the offences under Sec.297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit A-39 of the other charges.

A-40 Buden Khan alias Sabu.

94 He is aged 36 and is a horse Dallali' living in Mandi Mohalla. There are 6 witnesses who speak to his complicity in the riot. P.Ws.18, 37, 44, 51, 61 and 68 state that he was among the rioters. P.W.18 identified him in this court but

but not in the committing Magistrate's Court. Even excluding his evidence there is sufficiently strong evidence against this accused. All these witnesses know him. He sets up a defence that he was suffering from severe itches and was at home. D.W.15 and D.W.16 speak to his illness and to his attending the Unani Hospital. There is no evidence that he was bed-ridden or that he stayed at home that night. The prescription Ex.D.21 said to habe been given to him at the Hospital has been produced by D.W.16. This prescription is not proved. ~~to be correct~~. Granting it is true it only shows that he was attending the hospital till the 7th and then again on the 13th. If the prescription is believed, it is evident that he did not attend the hospital between 7th and 13th and this clearly shows that he could not have been suffering so badly from itches. The defence is not believable. The prosecution evidence against him is strong and reliable. It is stated that he was rushing to get into the church compound that he was throwing stones on the church and the police and also on the fire engine and that he obstructed the fire engine. He is therefore liable for charges I, II, IV, V, VIII and XIV. Two of the assessors are of opinion that he is guilty of the above charges, two others that he is guilty of charges I, II, IV, XIV, one that he is guilty of charge I only and two others that he is not guilty. I find him guilty of offences under Sec.147, 295/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. and convict him thereof. sentence him to two years' R.I. for each of the offences under Sec.147, 295/149, 332/149 and 427/149 and to one year's R.I. for each of the offences under Sec.297/149, and 448/149 I.P.C. The sentences will run concurrently. I acquit him of the other charges.

A-41 Jamal Sab:

95 He is a bullock cart driver in Lashkar Mohalla. There are only two constable witnesses against him namely P.Ws 29 and 33 and one Parivar witness P.W.67. The last merely

merely identifies him and knows nothing about him. The evidence against him is very meagre. His defence is the same as that of A-30 to the effect that both of them had gone to the house of Ameer Jan for the 'Fateha'and stayed there that night. The defence has been considered in connection with A-30 and it has been held to be believable. He is therefore to b e given the benefit of doubt. The assessors are of the unanimous opinion that he is not guilty. Agreeing with them I find him not guilty and acquit him of all the charges.

A-42. Md. Ameer.

96 He is a tonga driver in Lashkar Mohalla. There are three witneeses against him, namely P.W.s32, 43 and 56. Of these P.W.32 is unable to name him and the prosecution evidence against him is deficient. His defence is the same as that of A-15 to the effect that his cart was taken on hire to go to Kannambadi for the marriage of A-15 and that they stayed there on the night of the 10th. In connection with A-15 this defence has been considered and it has been held to be credible. This accused is given the benefit of doubt. All the assessors are unanimously of opinion that he is not guilty. Agreeing with their view I find him not guilty and acquit him of all charges.

A-43 Md. Abbas alias Sab Jan.

97 This accused is aged 26 and is a carpenter in Convent Road. There are five witnesses of the prosecution who speak against him, namely P.Ws. 39, 43, 45, 60 and 68. Of these P.W.68 did not identify him in the lower court, but the evidence of the other witnesses is reliable. They all know him. He has no specific defence. He merely states that he slept at home. It is stated that he was shouting and throwing stones at the church and the fire engine. P.W.43 states that A-43 was one of the party that assisted in the heaping of bamboos to set fire. He is therefore liable for charges I, II, III, IV? V, VIII,and XII. Four of the assessors are of

of opinion that he is guilty of charges I, II, IV, V, VIII, and XIV only, one that he is guilty of charge I only and another that he is not guilty. I find him guilty of offences under Sec.147, 295/149, 436/149, 297/149, 448/149,332/149 and 427/149 I.P.C. I convict him thereof and sentence him to two years' R.I. for each of the offences under Sec. 147, 295/149, 332/149 and 427/149 I.P.C. and to one year's R.I. for each of the offences under Sec.297/149 and 448/149 and to two years' R.I, and a fine of Rs.50 in default one month's R.I. for the offence under Sec. 436/149 I.P.C. The substantive sentences will run concurrently. I acquit him of the other charges.

A-44 Md. Hussain.

This accused is a beedi shop keeper in Lashkar - Mohalla. There are four witnesses who speak to his complicity in the riot, namely P.W.s33, 47, 49 and 71. The last witness merely identifies him. Still the evidence of the other three witnesses is reliable. They all know him as also his name. There is no specific defence but he merely states that he did not go to the church. The evidence against him is that he was throwing stones on the church and that he was beating with bamboos. He is liable therefore for charges I, II, IV, V, VIII and XIV. Six of the assessors are of opinion that he is not guilty while one is of opinion that he is guilty of charges I, II, IV, V, VIII and XIV. I do not agree with them. I find him guilty of offences under Sec.147, 295/149,297/149 427/149 and 332/149, and 448/149 I.P.C. and convict thereof. I sentence him to two years' R.I.for each of the offences under Sec.147,295/149, 427/149 and 332/149 I.P.C. and to one year's R.I. for each of the offences under Sec.297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit him of the other charges.

A-45 Abdul Razack:

He is aged 47 and keeps a butcher's stall. The evidence against him consists of that of P.W.

and 75. P.W.s 37 and 61 are not able to name him. P.W.75 names him wrongly as Rahiman Sab. P.W.66 is a Roman Catholic Christian and may be biassed. The evidence against him is very weak. The assessors are of the unanimous opinion that he is not guilty. I agree with them and find him not guilty. I acquit him of all charges.

A-46 Abdul Sattar.

100 He is aged 45 years and is a shop keeper in Irnagere. There are six witnesses against him, namely P.W.s 28,30,35, 40, 46, and 49. His defence is that he was suffering from Dyssentry, that he closed his shop at 9 that night and went home and did not stir out. Two witnesses D.W.13 and D.W.14 have been examined on his behalf. D.W.14 says that he saw him at 2 a.m. His house is at some distance away from the church. It was argued that he has a mother, wife and six or seven children and that he is an aged and sober man not likely to join in a riot. Though there is some presecution evidence against this accused the defence appears to be believable. The assessors are of the unanimous opinion that he is not guilty. I am inclined to agree with their opinion and find him not guilty. I acquit him of all charges.

101 All the material objects produced before court will be destroyed except M.O.8 which will be returned to P.W.2 Father Fuega. As large amount of the criticism and attack of the defence is directed against the conduct of the police on the night of the riot and the subsequent investigation, I have to observe after going through all the evidence and materials placed before me that it is gratifying to find that the conduct of the police officers and the men who had to work under very great strain on that night is commendable. There has been nothing reproachful or irregular in the investigation and the investigating officer has to be complimented on the promptitude and quickness with which he closed the investigation in a case of --

of this dimension and placed the charge sheet. I have also to add that the authorities concerned used no more force than was necessary for the dispersal of the unlawful assembly.

The assessors have followed the proceedings very closely and taken an itelligent interest. The diversity of opinion among them has been comparatively small. They have done their duty ungrudgingly during a continuous Session of over three weeks at great personal sacrifice. I exempt them from service as Jurors and Assessors for a period of two years from this date.

In conclusion I have to acknowledge the great assistance I received in the trial of this case from Mr. M. Srinivasiengar the counsel for the defence and Mr. K. Ramaswami the Public Prosecutor and express my appreciation of their precision and conciseness in the examination of witnesses and their clear analysis of the evidence while addressing arguments.

Dictated to the Stenographer and pronounced in open Court.

Sd/- C. Sibrahmanya Aiyar,
Sessions Judge.
28-6-1937.

DISTRICT AND SESSIONS COURT MYSORE

Copy applied on 1/7/37.
Copy delivered on 2/7/37, at Camp: Hassan.

By order.
G. N. Nanjundiah.
Head Munshi.
District and Sessions Court.
Mysore District
Mysore. Camp. Hassan

GOVERNMENT OF MYSORE

100 p 837

Dis No. 1/37-38
En Cover
Protest
MK 5/7

District & Sessions Court,
Mysore, dated 3rd July 1937.

Dear Sir, HS 5/7 BKR

I am enclosing herewith a copy of Judgment in Mysore Sessions Case No.-17 of 1936-37 (Church Rioting Case), for perusal.

Yours sincerely,

To

B.T.Kesaviangar, Esq., B.A.,
Chief Secretary to Govt. of Mysore,
Bangalore.

Submitted.
The Connected file has been forwarded to the Huzur Secretary yesterday. This will be placed in the file after its return.
8 12/7

BKR 8/7

5th Copy

IN THE COURT OF THE SESSIONS JUDGE,

MYSORE DIVISION.

Mysore, dated the 28th J u n e 1937.

Present: C. Subrahmanya Aiyar, Esq; B.A., B.L.,
Sessions Judge.

Mysore Sessions Case No.17/36-37.

GOVERNMENT.

PROSECUTOR

1. Abdulla Sab.
2. Md. Khasim(a) Saba.
3. Gulam Ahmad(a) Sabu.
4. Abdul Sattar.
5. Syed Hussain.
6. Md. Saniulla.
7. Syed Ibrahim.
8. Md. Ibrahim(a) Baba.
9. Abul Hussain(a) Sabu.
10. Abdul Sammad(a) Basha.
11. Abdul Rahim.
12. Md. Akbar.
13. Amirjan.
14. Khader Khan.
15. Abdul Rahiman (a) Jani.
16. Abdul Azeez.
17. Abdul Rahiman. S/o Md. Usman.
18. Abdul Rahiman S/o Abdul Nabi.
19. Ebrahimkhan(a) Dewan.
20. Yashim Sheriff (a) Sunni.
21. Syed Ziauddin.
22. Abdul SattarKhan.(a) Sattar.
23. Hyder Beig.
24. Abdul Sattarkhan, S/o Abdul Sattar.
25. Abdul Aziz S/o Md. Ebrahim.
26. Abdul Khuddus.
27. Ameerkhan (a) Amir.
28. Ahmad Sab (a) Ahmad.
29. Azizulla Shah.
30. Dastagir Sab (a) Dastu.
31. Sabjan.
32. Sattarkhan, S/o Karimsab.
33. Gulam Rasool (a) Baba.
34. Basheer Ahmad.
35. Manna Amir.
36. Abdul Wahab.
37. Abdul Karim.
38. Chote Sab (a) Md. Jaffar.
39. Abdul Gaffor (a) China.
40. Budankhan (a) Sabu.
41. Jamal Sab.
42. Md. Amir.
43. Md. Abbas(a) Sabjan.
44. Md. Hussain.
45. Abdul Razaak (a) Md. Peer.
46. Abdul Sattar S/o Abdul Latiff.

ACCUSED.

JUDGMENT.

J U D G M E N T.

1. The City Magistrate of Mysore has committed 46 accused persons on 14th April 1937 in C.C.No.384 of 1936-37 on the file of his Court to take their trial before the Court of Sessions for the offence of rioting and other connected offences.

2. The Magistrate has framed 14 charges. There is one general charge of rioting against all the accused under Section 147 I.P.C. Nine other charges of liability for offences of hurt, trespass, mischief, arson etc., as having been committed in prosecution of the common object have been framed and these are under Sections 149 I.P.C., read with Sections 295, 297 323, 332, 333, 427, 435, 438 and 448 I.P.C. respectively. Four separate charges have been framed against four individual accused namely, A-14, A-41, A-29 and A-9 respectively under Section 332 I.P.C. for causing hurt to particular public servants while in the discharge of their duties.

3. The facts as set out by the prosecution are briefly these. During the night of the 10th January 1937 and the early hours of the 11th, a rioting of an unprecedented magnitude took place at St.Philomena's Church in Irnagere in Mysore City. A huge mob of Mussalmans consisting of several thousands, committed rioting and various acts of mischief, damage and arson and caused hurt to several officers who were engaged in dispersing the mob. Ultimately the mob had to be dispersed by the opening of fire under the orders of the City Magistrate at about 2 A.M. and the situation was brought under control. At about 8 P.M. on Sunday the 10th January 1937 a canard appears to have spread in the Muahammadan locality of Mandi Mohalla and Irnagere that two Muhammadan boys had been decoyed into the St. Philomena's Church to be offered as sacrifice to the shrine there. Father Feuga(P.W.2) who is the Chaplain of the Church and who had arranged to leave for

for Bangalore by that night's train observed a small group of 15 to 20 Muhammadans standing at the southern gate of the church. He asked his Assistant Father Joseph (P.W.5) to question them. When he was informed of the rumour, he assured them that it was utterly false and baseless and the small crowd appears to have dispersed. After 9 o'clock he left in his car for the Railway Station and took train to Bangalore by the 10 o'clock Passenger. His Assistant (Father Joseph) also went immediately afterwards by car to Krishnarajanagar with his parents, to see the illuminated fountains there. After these people left, at about 9-30 P.M. a host of Mahammadans gathered round the Church. They rushed into the compound and then in into the verandah of the Quarters of Father Feuga, attacked the watchman John and Chowri who were sleeping there, damaged the window panes and a door of that building, mutilated the consecrated images of St.Philomena and St.Antony in the Church compound and broke the 4 window panes of the Church. When the report of these acts reached Miss Fonseca (P.W.6) who is the Manager of the Press attached to the St.Philomena Church and who is living on the premises, she asked Francis (P.W.7), who is the chauffeur of Father Feuga and who had just then returned from the Station after leaving his master there, to ring the Church bell to raise an alarm.

4. In the meanwhile at about 9-15 P.M., A-37 Abdul Kareem had turned up at the Handi Police Station with his younger brother Mahamad Khasim (P.W 17) a boy of about 12 years of age. He gave out a complaint to the Sub Inspector Laxman who was there that he and another boy Gouse Sheriff had been taken inside this Church by a Christian and asked to bend at the catacomb, that Gouse Sheriff ran away and he also ran out crying. While Sub Inspector Laxman was recording his complaint he heard the Church bell ringing continuously. Fearing that there

there was something wrong he with two other constables went on bicycle to the Church in advance directing the Daffedar to turn up there with the available constables. They found a mob of 200 to 300 people and attempted to pacify them, but without success. Then Mr.Subbarao, the Inspector of the Administration Branch came to the spot. Seeing that the mob was increasing and that they were committing further acts of violence by throwing stones and brickbats, he phoned to the District Superintendent of Police and for reinforcement of police from the Nandi Station, and brought a contingent of the Reserve Police fully armed. Even these were not able to disperse the mob. In the meanchile the mob set fire to a shed in which building materials had been placed and also the cooly sheds and to the scaffolding which had been put up for the construction work of the Church which is proceeding. The fire engine was requisitioned and when it arrived, the mob attacked the fire squad and the engine with stones, brickbats and bamboos and made it impossible for the fire engine to be operated. The City Magistrate was himself hit on the face by a stone or brickbat and several other Police Officers were also injured. When the fire engine came for the third time and got into the Church compound through the southern gate the mob of several thousands rushed in a body throwing stones and brickbats. As the attitude of the mob had become very violent and it was apprehended that they would fall on the City Magistrate and the Police Officers there, the City Magistrate ordered firing. The Reserve Police opened fire on the mob as a result of which three persons out of the mob fell down and some other sustained injuries. The mob dispersed immediately and the situation came under control. The damage to the Church is estimated to be about Rs.12,000/-.

5. The F.I.R. was sent by Inspector Subbanna at about 3 A.M. on the 11th January. The further investigation was taken up immediately by Mr.Shivarama Rao, Inspector of the Crime Branch in Mysore City, under the orders of the District Superintendent of Police. He examined several officers who were on the scene and held a roll call of the Police Daffeda and constables who were engaged in dealing with the mob. A fairly large number of policemen who knew some of the participators in the rioting and who could identify them gave out their names to the investigating officer. The accused were all arrested in the course of two or three days and the investigation was completed and a charge sheet was placed on the 22nd January 1937.

6. The committing Magistrate examined 114 witnesses and as he found that there was a prima facie case of offences under Sections 333 and 436 I.P.C. also, he committed the 46 accused to take their trial in the Sessions Court. In the charge sheet 47 accused had been entered. The 1st accused therein Abdul Karim who had a bullet wound died immediately after the charge sheet was placed. The 47th accused Abdulla Sab on the list in the City Magistrate's Court has been numbered as accused No.1 in this Court, the numbering of the other accused remaining the same.

7. In this Court the prosecution examined 76 witnesses and the defence examined 44 witnesses. All the accused have pleaded not guilty and most state they were not present at the scene of rioting, 25 of them have pleaded alibi.

8. As charges of mischief by fire and criminal trespass under Sections 426, 427, 435, 436 and 448 respectively are triable in the Sessions Court by Jury, a Jury was empanelled. The other offences with which the accused have been charged under Section 147, 149, 295, 297, 323, 332 and 333 I.P.C. respectively are triable by the Court with the aid of these Jurors as assessors under Section 269 (3) Cr.Pr.Code. It is found that there is no evidence of any particular individual

individual among the accused before the Court having actually committed offences under Sections 426, 427, 435, 436 and 448 I.P.C. The charges against the accused are under Section 149 I.P.C. of liability for offences of mischief, arson and criminal trespass as having been committed in prosecution of the common object of the unlawful assembly or such as the members of an unlawful assembly knew to be likely to be committed in the prosecution of that common object. Their liability is a constructive liability under Section 149 I.P.C. It has been held in 40 Mys.H.C.R.200 that charges of liability under Sec.149 I.P.C. for offences of mischief etc., are triable by the Sessions Court with the aid of assessors and not by a Jury.(Vide also 52 Cal.197 P.C.). Thus since all the charges resolve themselves into charges of offences under Sections 147, 149, 295, 297, 323 and 332 333 I.P.C., there has been no necessity for a charge to the jury and the court summed up the evidence for the prosecution and the defence to the assessors and their opinion has been taken and recorded on all the charges.

The church of St. Philomena is situated in the locality known as Irnagere in the northern part of Mysore City on the Bangalore-Mysore Road, ie., the continuation of the Dodpet road towards the north which is also referred to as the Irnagere road. This church stands on the grounds where formerly the St. Joseph's Church stood. The old Church is said to be an ancient one the foundation of which was laid in 1842 by His Highness the late Krishnaraja Wodiyar. The construction of the new church was started about 1933 the foundation having been laid by His Highness the Maharaja. It was formally dedicated on 11-8-1936 and service is being held therein ever since. It is a Roman Cathoclic Church belonging to the Diocese of

of Mysore under His Lordship the Bishop of Mysore. It is being constructed at a cost of about 3 lakhs of rupees out of contributions from its devotees all over. The new Church has a frontage on the western as well as the southern side, besides which there is an opening of 10 to 12 feet, made in the compound wall for the use of carts, conveying building materials to the Church. Inside the Church compound there are the St.Philomena Girls' School, Presbytery or the Priests' Quarters, the Catholic Press Manager's Quarters, cooly sheds and huts of watchmen. North of the Church there is a Christian Colony known as "Lourde's Nagar" which is separated from the Church by a lane. Parivars, Indian Christians, Adikarnatakas and Mahammadans form the main population of the locality round about the Church. The main Dodpet Road is west of the Church. Opposite the Church beyond the main road on the western side there is a row of shops and houses and farther beyond there are dwelling houses of a mixed population of Christians, Mahammadans and Hindus. In the north-west corner outside the Church compound there is a public tap to which frequent reference is made by witnesses in the evidence. At the south-west corner there is the St. Joseph's Boys' School facing east. To the south of the Church there is a road connecting Dodpet with the road from the north gate of the Government House. To the south of this road there are a petrol pump at the western end, the Amble Anniah Pandit's Dispensary and the Convent attached to the St.Philomena Church. In the Church compound the new edifice of the St.Philomena Church is under construction and is almost nearing completion. There is a considerable amount of scaffolding of bamboos and timber put up for the construction work. Inside the Church there is a catacomb to which there is an outside entrance also and in which the image of St.Philomena is deposited. On the

the eastern side of the Church there are the Statues dedicated to St.Philomena, to the Lady of Lourdes and to St.Antony. These statues are protected by thick plate glass coverings. In the Mandi Mohalla and Irnagere in which locality this Church is situated there is a very large Muslim population.

10. There is undisputed evidence that there was a very serious riot in Mysore in the vicinity of St. Philomena's Church and its premises by a large Mussalman mob during the night of Sunday the 10th January 1937 between 10 P.M. of that date and 2 A.M. of the 11th and that the mob which gradually increased to about three thousand, committed various acts of mischief by breaking the window panes, electric lights and the Statues in the premises and setting fire to the huts. the scaffolding and a carved door of the Church and caused damage which is estimated at about Rs.12,000/- They also caused severe injuries to the Police Officers and the fire eng squad who attempted to quench the fire and also to the City Magistrate. The several incidents that are said to have happened are not denied.

11. An affair which appeared at its inception to be somewhat trivial and casual took serious proportions in the course of two or three hours with dire consequences to the rioters as well as to the Church and the persons engaged in quelling the disturbance. In the early part of that night a rumour seems to have got afloat in the Muhammadan locality of Mandi and Lashkar Mohallas including Irnagere that some two Muhammadan boys had been decoyed into the St.Philomena's Church for being offered as sacrifice to the shrine. There is nothing on record indicating what is the origin of this rumour, or whether it was engineered intentionally by any mischievous persons to incite the Mussalmans against this Roman Catholic

Catholic Church and whether ~~are~~ were any causes of friction existing between the Mussalmans and the Roman Catholic Christians of these localities. The story is that sometime before 8 P.M. a Christian boy led into the Church premises two Muhammadan boys of the age of about 12 and _____ _____ to look into the catacomb and went away leaving them there. The boys got afraid and ran out of the Church compound. This is the story given out by P.W.17 Muhammad Khasim who is one of the boys concerned. He came with his brother (Abdul Kareem A-37) about quarter past nine to the Mandi Police Station and gave a complaint to Sub Inspector Laxman. Even if this story be true, it is not clear how a rumour got about that Muhammadan boys were being taken into the Church for the purpose of sacrifice. It is evidence that some mischievous brains were busy in magnifying a trivial matter. It is rather difficult to imagine that a wild and irresponsible canard of this sort could have incited some three thousand Mussalmans to assemble in the vicinity of the Church in the course of a few hours during the night unless there had been some previous causes of friction between the Mussalmans and the Christians of this locality. But there is no evidence in regard to it.

12. Service was over at the Church that night by about 7 P.M. and the Church was closed at 8 P.M. At about 8-15 P.M the Rev.Father Feuga (P.W.2) who is the Chaplain of the Church and his Assistant, Father Joseph (P.W.5) were walking as usual in the Shrine premises saying their prayers. They noticed a group of Muhammadans of about 10 to 20 in number near the southern gate of the Church compound. Father Feuga asked his Assistant (Father Joseph) to ascertain why they were there. It was learnt from them that one or two Muhammadan children had been taken in for being sacrificed in the Church. They assured the crowd that no such thing had taken place and that no Muhammadan child was in the Church premises and

and the crowd appeared to disperse. Then Father Feuga who had arranged to go to Bangalore that night left by car to the Railway Station and took train to Bangalore at 10 P.M. Ver[illegible]ather Joseph (P.W.5) who had received orders of transfer left by car to Krishnaraja Sagar with his parents to see the illuminations there. These facts are spoken to by Father Feuga (P.W.2) and Father Joseph (P.W.5). This small crowd had also been observed by Miss Fonseca (P.W.6) the Manager of the Press connected with the Church and Francis (P.W.7) the driver of Father Feuga. Very shortly after Father Feuga left, some 7 or 8 Mussalmans came into the verandah of Father Feuga's Quarters where two watchmen John and Chowri (P.W.12 and 13 respectively) were lying down. They asked John (P.W.12) where the Padri was. When he told them that he was not there they said he was telling a lie and gave him a slap on the cheek and he ran away. Then they caught hold of Chowri (P.W.13) and belaboured him, dragged him up to the gate and pushed him out of the gate. He lay there injured. John ran and complained to Miss Fonseca who was also living on the premises. This was at about 9-45 P.M. and at that time Francis the driver of Father Feuga returned with the car from the Railway Station after setting down his master there. When he left the car in the shed and closed it the Mussalmans came and asked him where his master was and when they were told that he had gone to Bangalore they would not believe it and attempted to beat him. He ran away and met Miss Fonseca who was coming that side and she asked him to ring the Church bell to ~~give~~ raise an alarm. He rang the bell for about 5 minutes and stones were being pelted by the Mussalmans while he was doing so.

so. John and Francis ran away to their houses. Miss Fonseca -states that she ran to the Priest's Quarters and found Chowri was being dragged by some 15 or 20 people and a big mob standing outside the gate. She says she asked Francis to give the alarm by ringing the Church bell and retired to her quarters as it was not a safe place for her to stay in.

13. In the meanwhile at about 9-15 P.M. A37 Abdul Kareem accompanied by his younger brother Mahammad Khasim P.W.17 a boy of 12 years, went to the Mandi Police Stantion and was giving a complaint to Sub Inspector Lakshman P.W.72. The complaint is noted in the Station House Diary for that day at as Ex. P7. The substance of the complaint has already been set forth in the previous paragraphs. Just then while the Sub Inspector Lakshman was recording the complaint he heard the Church bell pealing continuously. Feeling there was something wrong he asked Daffedar Sivaprasad to run up to the Church with the available constables and he himself went in advance with constables Rachiah and Gouse Khan on bicycles. Very soon after he went there Daffedar Sivaprasad came up with four constables. He found that some three or four hundred Mussalmans had assembled at the Southern gate of the Church with stones, sticks and brickbats. They were saying that four of their boys had been taken into the Church and sacrificed and the Padri to whom they complained went away saying there was nothing. They were shouting that they should rush into the Church and break everything. They were throwing stones on the Church. The Sub Inspector Lakshman tried to pacify them saying that he would enquire, but they did not listen and the trouble was increasing. He found Chowri was lying down there injured. He sent him to the Hospital with constable Subrahmanyaraja Urs. He asked constable Rachiah to inform Inspector Subbanna and also telephone to the Station to send more Police men immediately. Inspector Subbanna

arrived at the spot very soon afterwards. His advice to the mob was not heeded. The mob rushed into the compound. assaulted Sub Inspector Lakshman and other Policemen. The mob then smashed the glass panes covering the statues of St.Philomina and St.Anthon damaged the statue of St. Philomina and decapitated the statuette of infant Jesus fixed in the rams of St. Anthony's statue. The mob then rushed into the Chaplain's quarters, smashed the window panes, damaged the furniture in the verandah, broke the flower pots and a door and committed similar acts of mischief by throwing stones and brickbats etc., They also smashed two ornamental globe lights at the southern gate. Inspector Subbanna went to the Reserve Lines, phoned to the D.S.P. and brought from the Provential Reserve Police Lines the Subedar, a havildar, a naik and nine constables fully armed to the spot. More constables came in from the Mandi station with Daffedar Sesha Iyengar. On receipt of a phone message Daffedar Mallikarjuniah of Devaraj Police Station mobilised his constables and rushed to the spot. The D.S.P. also arrived on the scene very soon afterwards. He tried to pacify the mob but in vain. All these facts have been spoken to by Sub Inspector Lakshman (P.W.72), Inspector Subbanna (P.W.73) and the Police-men of the Provincial Reserve , and those of the Mandi Station, namely P.Ws.18 to 21 and 23 to 49. These facts are undisputed and are not questioned in the cross examination of these witnesses.

14. Then the next stage of the disturbance in which acts of incendiarism and serious hurt to the officers were committed, started. While the D.S.P. was questioning P.W.17 Mahamad Khasim, a thatched shed on the southern side of the Church in which building materials etc had been kept was set on fire. Inspector Subbanna and constables proceeded to put out the fire but the mob hurled stones and brickbats at them to prevent them from extinguishing the fire. Very soon afterwards a row of nine sheds on the northern side of the church in which some coolies connected with the construction of the new church and workmen were living were set on fire. Then the scaffolding which had been put up for the

the building work was set on fire. Very shortly afterwards the mob stacked bamboos against the big ornamental door on the western side of the church building and set fire to it. The door got charred. Attempts by the police to put out the fire in these places were also frustrated by the mob by a fusillade of stones, brickbats and such other missiles. The Inspector sent a constable to telephone to the Railway Station for sending the fire engine and Sub Inspector Laxman was sent to fetch the City Magistrate as the violence of the mob was increasing. As the fire engine did not come Sub Inspector Ramachandraph was sent to phone to the Railway Station again. While he was going to the Reserve Police Lines to get at the phone he was surrounded by 20 or 30 Muslalman and was hit on the head and body with bamboos. He was not let off till A-23 Tailor Baig who had seen him said that he was not a Christian but a Brahmin. The wounds began to bleed and he got giddy and sat down. Then Inspector Subbar came and sent him to the N.H. Hospital where he underwent treatment for nearly a month and half.

15. The City Magistrate Mr. Guru Dutt(P.W.8) arrived on the spot a little while after midnight. Some members of the crowd complained to him that two or three Muhammadan children had been taken inside the church for sacrifice and that one or two of them had escaped and informed their parents. He asked them to produce those children and their relations and wanted that some elderly or respectable people to come forward to speak on their behalf. A boy was produced who was crying and could not answer the City Magistrate's questions, some Muslalmans came forward and behaved rudely to him. No respectable or elderly people came forward. The City Magistrate's attempts to pacify the mob failed. He went with the Priest to the northern side of the church to open the door there in order to look into it, but the approach was impossible as lighted pieces of the scaffold-

scaffolding which was on fire began to fall and stones were also coming in from the mob. When he was at the southwestern gx corner of the church trying to pacify the mob not to become violent he was hit on the right side of the forehead by a stone. As the wound began to mix blood profusely he went in his car to the house of Mr. Thambu Chetty to get first aid and also telephone facilities. There he got his would dressed by Mr. Balakrishna Mudaliar and he sent a written communication to the Commander of the Infantry to come with the Military. He also phoned to the Commandant of the Mysore Horse. He returned immediately afterwards to the spot. By this time the crowd had surrounded the church on all six sides except the eastern side and they were yelling and throwing stones and brandishing bamboos. The fire engine came by about 12-30 or so in the night. It came along Dodpet road and after going past the church on its its western side stopped near the public tap in the northwest corner outside the church compound. Station Master Srinivasa Iyengar(P.W.65) who had also come with the fire brigade got down to find out where he could stop the fire engine to use it conveniently. The mob by this time began to attack the fire engine, clambered over the foot boards and body of the engine and pelted the fire squad with stones. The Station Master got separated from the fire engine on account of the intervention of the mob and he went into the church compound. The mob was shouting as stated by Mr. Mc. Kerney "We have set the fire; you should not put it out." The fire engine which was under the control of Mr. Mc.Harney(P.W.14) carriage Inspector, Mysore Railways, was taken away in the lane north of the church as operation was made impossible by the mob and it came round xxx to the Dodpet Police Station. After being informed there that the police force was at the church the fire engine was ~~xxxxx~~ taken along the Dodpet road again and this time it was

was allowed to proceed only up to the Amniah Pandit Dispensary which is on the main road just south of the church and near which there is a petrol bunk also. The mob attacked it again shouting that the fire engine had come again. They began to throw stones and brickbats on the fire engine. Mr. Mc Kernay who had been hit previously got another hit from a brickbat on the right side of his face and he fell off the engine. P.W.16 Srikantiah a fitter of the Loco Department, Mysore Railways who was also in the fire squad got hits from brickbats on his lips and the head and he lost consciousness for a short time. Both these people were sent to the Hospital for treatment. While the mob was attacking the fire engine near the petrol bunk a contingent of constables rushed to the spot from Devraj Police Station. They tried to disperse the crowd and to make way for the fire engine but many of them also got hits and it was not possible to clear the way for the fire engine. Consequently it had to go back to the Dodpet Police Station. A little while afterwards Mr. Murthy, Sub Assistant Loco Superintendent(P.W.16) who is the officer having charge over the fire engine came up to Dodpet Police Station, as he got a telephone message. He found the fire engine there and took charge of it. In the meantime the Municipal President and four Reserve constables came up there. Mr. Murthy proceeded with the fire engine along Government House side and came from the eastern side to the south gate of the church and got in. As soon as the mob saw the fire engine they rushed yelling and shouting to the south gate of the church to prevent the fire engine from getting in and began to throw stones and brickbats indiscriminately on the police and other officers. All these facts are spoken to by the City Magistrate, the Police officers and constables and other

other officers of the fire squad. The burning of the huts is spoken to by the occupants thereof and also by all the police officers who had come to the spot earlier. Mr.- Van Ingen(P.W.4) and Mr. Morris(P.W.3) who had gone to Belgola for crocodile shooting and who were returning at about 1 a.m. in the morning states that they saw the conflagration in the direction of the church while they were at the outskirts of the City and they came up near the church. They were set upon by the crowd which attempted to attack their car and they had to back the car and get away along the Transformer House.

(16) By this time the mob had increased to a strength of three thousand or thereabouts. They were throwing stones and brickbats indiscriminately on all the officers and the police and were also hitting some with bamboos. They had broken the window glasses and dome-lights, they were attacking the fire engine and made it impossible for the fire engine to operate. When the fire engine came on the third time to the southern gate and went in, the entire mob made a concerted rush shouting and yelling and throwing stones and brickbats. A large number of police officers had already been injured and the City Magistrate himself had received a serious cut on his face. The crowd rushed from all sides and they were shouting "Haro, Haro." The situation became uncontrollable. As they rushed through the southern gate and made for the City Magistrate, the Police and other officers who were there, in a very aggressive attitude, the City Magistrate ordered the Provincial Reserve Police to open fire. Warnings were shouted out that fire would be opened if the mob proceeded further but they were not heeded and the crowd made a determined rush at these people. As there was imminent danger to the lives of these officers the Reserve Police opened

opened fire. Some 32 rounds appear to have been fired. Few people fell and the crowd dispersed. In a short time the streets were deserted. Three Muhammadans fell on the spot in different places, two of these had died and one who had received fatal injuries was removed to the K.E. Hospital there he died very shortly ~~xxxxxxxxx~~ afterwards. These facts are spoken to in detail by Inspector Subhanna (P.W.73), Sub Inspector Laxman(P.W.73) and are corroborated by the P.W.P. men and Kardi Police constables(P.W.10 to 21 and 23 to 49.)The City Magistrate(P.W.8) gives a full account of the incidents from the time he arrived on the spot about midnight till the dispersal of the mob by firing. Veterinary Inspector Hamman(P.W.66) whose house is opposite the church and faces east and who was observing the incidents from his upstairs mentions the acts committed by the mob. The fire squad men(P.W.14 to 16 and 66), and the Devraj Station Policemen(P.W.s 60 to 64, 66 to 68, 66 to 75) and Traffic Daffedar Natchar(P.W.69) speak to the later incidents. There is no reason to disbelieve all this large volume of evidence. In fact, the events of that night are not seriously disputed by the defence.

17. The several acts committed by the mob during the disturbance resulted in considerable injury to property. Damage was caused by throwing stones and brickbats and also by direct ~~xx~~ force to the church, chaplain's quarters, the statues and the electric dome-lights. Damage was also caused by fire to the huts, the scaffolding and the church building proper and also to the stores and building materials kept in one of the huts. The loss to the church authorities is estimated by Father Fouga to amount to about Rs .10,000/-. These acts fall under the category of mischief by fire, house trespass etc. Besides these acts the mob caused hurt

to

to several officers and men by throwing stones and brickbats and the use of bamboosticks. The City Magistrate received a deep gash on the right frontal eminence which necessitated treatment at the Hospital for a number of days and which shrinks has left a scar on his face. Sub Inspector Ramachandran(P.W.32) received hits on his head and face which necessitated treatment for over a month and a half and have left scars. Mr. Mc.Mercy (P.W.14) and Srikantiah(P.W.15) of the fire engine squad Inspector Subbanna(P.W.73), Sub Inspector Laxman(P.W.72), Subedar Samulla(P.W.18), Naik Syed Hamid(P.W.19), Daffedar Nallimarjuniah(P.W.30) and constables Brooks(P.W.68), Krishnasingh(P.W.38), Subramanyarajurs(P.W.59), Ahmed Khan(P.W.68), Sivanaujiah(P.W.44), Siddiah(P.W.38), Anthony(P.W.47), Naidhu(P.W.34) Changalraj(P.W.53) and Arulappa(P.W.66) besides Chouri(P.W.13) who was the first to be belaboured, received injuries more or less severe from the acts of the mob. These injuries are spoken to by the Sub Assistant Surgeon Subramany Iyer(P.W.9) who attended on these persons in the Hospital. Exs.P.3 series are the the entries in the Accident Register and Ex.P.4 series are the certificates issued for the injuries. These acts of the mob fa under the categories of causing hurt to deter public servants f doing their duty, and grievous hurt.

19 Before proceeding to a consideration of the offences that have been committed during the course of the disturbance it is necessary to examine the attitude and the object of the mob. To start with, between 8 and 9 p.m. when Father Fouga was still in the church, it was only a handful Muhammadans that assembled there and thier object was then to find out the truth of the rumour that some Muslaman boys had been taken into the church for purposes of sacrifice. Father Fouga and Father Joseph state that they assured them that it was not true and the mob appeared to disperse. Some 40 or 50 Muslamans appear to have come to the spot very shortly at about half past nine after Father Fouga left for the Railway

Railway Station. They do not appear to have kept within their bounds. They entered the church premises and the verandah of Father Feuga, assaulted the watchmen Jon and Chowri who were lying there and causedsevere injuries to Chowri, dragged him to the gate and threw him out . They attempted to attack Francis the driver of Father Feuga. but he ran away, when Francis began to ring the church bell to raise an alarm according to the instructions of Miss.Fonseca the Mussalman crowd began to pelt stones. These acts themselves show that it was not a peaceful crowd but an unlawful assembly. By the time Sub Inspector Laxman (P.W.72) came to the church a little prior to 10 O'Clock the crowd had increased to 300 or 400 Mussalmans. They had stones, brickbats and sticks and they were shouting that t hey should rush into chur ch compound and broke the window panes of the church the Chaplain's quarters, the statues and the dome-lights. Though all the police officers including the D.S.P. who arrived later tried to pacify the mob and assured them that they would enquire into the matter, the mob did not listen to their words Even when the City Magistrate came he attempted to pacify them and asked some of their leaders to come forward saying that he would show them inside the church. He even attempted to give the key of the church. But the mob was not satisfied. They would not disperse. On the other hand the mob was graudually gaining force and when firing was ordered it was estimated to amounted to about three thousand. The violence of the mob instead of abating, increased. Itis clear therefore that the common object of the mob was to trespass into the church premand cause damage to the churchand its properties. This is evident from their acts and also from the shouting and the words of incitement uttered by the ring- leaders. They set fire to the sheds and scaffolding and would not allow the fire to be quenched They attacked the fire engine which came to quench the fire. They also attacked the police officers who attempted to quench the fire and prevent the mob from damaging property. There.

There is ample evidence that there was continuous exhch exchange of ideas among the members of the mob by rallying cries, direction to rush in, rows of incitkmk incitement to commit damage, beat the police and drive out the fire engine. Considering the methods adopted by the crowd almost from the very commencement and the shoutings and incitement it is difficult to say that they came there with the peaceful object of ascertaining the truth of the rumour that boys had been taken in for the purpose of sacrifice. Even granting that they came there with that peaceful object it yielded place durin the course of half an hour to the common object of causing damage to church property, defiling and damaging of statues, trespass and such other unlawful purposes.

19 It has been stated over and over by the learned counsel for the defence that this unfortunate affair would not have taken such serious propor tions resulting in loss of life and damage to property but for the tactlessness of the police in not allowing the mob inside the church premises to satisfy themselves as to whether Mussalman boys had been decoyed therein. It is contended that the crowd ought to have been humoured and their demand to get in should have been allowed. Every one of the police officers including the D.S.P. has tried to pacify the crowd by promissing to enquire into the matter. Even after the City Magistrate came he wanted some of the leaders to come forward so that they might be taken in and shown. Buton the other hand the mob was rude to him and hit him on the face. The chaplain and his assistant had gone away and it was not possible for the Police to open the church doors. The police would not have been justified in opening the church doors merely because the mob demanded it. In fact the mob had not any right to get into the church premises even if there was a canard going about that boys had been taken in the resort that should have been resorted to by these people is to lodge a complaint to the police and move them to take immediate action and not to take the law into their own hands and rush into the church compound. Getting into the church compound without the permission of the authorities even though it be to satisfy themselves about the truth or otherwise of a

was in itself criminal trespass. It cannot be conceded that itself criminal trespass. It cannot be conceded that

that their object was lawful if they attempted to into the church without permission. If t he proposition that when a mob come to the gates of a building and make a demand tha t they should be satisfied by letting them in as otherwise they might take the law into their own hands and commit violence, no man's property is safe. At that rate a dozen rowdies might come up to the house of any man and d emand to b e let in f or satisfying themselves about the truth of some rumour falase or invented for the occasion, threatening violence in the alternative. It is clear that the c rowd which assembled at the church after half past nine did not assemble for any peaceful purpose. They seem to have come there with the evident object of damaging and defiling church property as they had got into a delusion or obsession by the canard that Muhammadan boys had been taken into the church and sacrificed. They had already committed acts of violence even before the police came on the scene. They had belaboured Chowri the watchman and assaulted John. They would not believe these people and Francis when they told them that Father Feuga had left for Bangalore. It would have been the height of folly on the part of the police to havelet loose into the church the crowd of 3 or 4 hundred Mussalmans even taking into consideration they very early stages. It is difficult to imagine what they might not have done in the church. There would have been ~~mm xm~~ more havoc and damage at their disappointment in not finding the Muhammadan children whom they expected to remain the church There is no knowing that their doubts would have been satisfied at all. They might still suspect that the children have been sacrificed and the dead bodies taken away or they have been decoyed elsewhere. They might demand to go round the entire premises causing damage everywhere. They had worked themselves into a high pitch and it would have been disastrous to have allowed the entire mob into the church , though itiis true the disaster could not be prevented as enoromous numbers ~~xm~~ xcollected subsequently

subsequentl y to do violence. Words of advice from the police officers, the D.S.P. the City Magistrate and the Municipal President who had also come then fell on deaf ears. It is possible that if some of the leaders of the Mussalmans had come out and given the mob good counsel, they might have listened, but somehow none such came out and ~~not~~ mob contagion and influence had full play.

It is not correct to say that the mob committed these acts of violence because the police prevented them from going in. They had in fact got into the church compound even before the police came and large numbers of them rushed in inspite of the Police and damaged the windows and statues. These acts show beyond doubt that the object of the mob was not to get in and ascertained the truth or otherwise of the rumour that had got afloat, but it was to damage and defile church property. This is evident from the cries of incitement of the mob to rush in and break things.

Whatever their initial motive may have been, it is clear and that at any rate after 10 P.M. the mob became an unlawful assembly and grew riotous by their acts. The police were not wrong in preventing the mob from entering the church premises even if they the police had the ability to control the mob at that stage and there is absolutely no justification forthe mob to rush into the church. Evenafter they got into the church there was much less justification for them to smash everything and cause hurt to the officers who tried to prevent the damage. Some out of the mob set fire to the huts, scaffolding etc., and when the fire engine and police officers attempted to extinguish the fire, their attempts were dellberately fustrated by the mob by pelting them with stones,brickbats and bamboos. Their intention clearly was to see that the church was damaged by fire. These acts undoubtedly constitute rioting. According to the explantion to Section 141 I.P.C. an assembly though not unlawful when it first assembled, may subsequently become an unlawful assembly. Even when they saw that acts of violence were being committed and there was serious rioting and some members were indulging in incendiarism and violence to police officers and men. the rest continued to stay in the mob and furthered the common object.

object. They expressed approval by shouts and also over acts. From about 9-45 P.M. when the crowd was dispersed by resorting to firinng, the crowd wenton gaining force and acts of violence also increased. It is not denied by the defence tha t these acts constituted rioting and the main plank of the argument on behalf of the defence is that the accused before court are not the culprits.

22 It was argued by the defence counsel that the mob behaved in this manner on account of the scare of kidnapping children which had prevailed in Bangalore shortly prior to this occurrence, that the mob had every justification in demanding to be satisfied that none of their children were taken in for sacrifice. This is a matter , if at all, for consideration only in regard to the quantum of sentence to be imposed on the culprits and not a justification for committing offences. Even granting that their motive at the commencement was lawful, the means adopted were entirly unlawful. During the course of four hours the size of the mob increased to some thousands and the acts of violence and mischief increased also in quality and magnitude. The setting of fire to the sheds and the scaffolding the preventing of the police officers and the fire engine from quenching the fire and the hurt caused to the several officers cannot be justified by the defence on any ground and it cannot be denied that these are offences, At the first stage the mob merely indulged in acts of mischief by smashing window panes and electric lights by throwing stones, and damaging statues, and in assaults on police officers. Very soon afterwards a shed which contained building materials on the southern side was set on fire. Then a row of sheds on the northern side was set on fire. The scaffolding was also set on fire . Bamboos were stacked against the ornamental door of the church and this was also set on fire, became rempant and the mob frustrated the efforts of the authorities concerned in extinguishing the fire. Incentiarism

23 During the cross-examination of some of the prosecution

prosecution witnesses it was suggested by the learned counsel for the defence that the sheds might have accidentally caught fire as the coolies were cooking in them. An instance of an accidental fire in these sheds a year back was also cited in support. Apart from the evidence of the prosecution witnesse the circumstance clearly show that the fire was not accidental in this case but an act of ~~xxx~~ arson. The southern shed caught fire first. Only materials such as timber mouldings etc. had been kept therein and there was no cooking in it. Then the row of sheds on the northern side was on fire. It cannot be said that the fire on the southern side got communicated to the northern row of sheds since the two sets are separated by the huge strucure of the church . The scaffolding was set on fire. There is evidence that the mob heaped bamboos against the ornamental western door of the church and set on fire to it. Apart from the evidence of Inspector Subbanna (P.W.~~3~~3) and others police witnesses there is the evidence of P.W.56 Mannas Veternary Inspector of the Municipality who lives almost opposite the church in Dodpet road in regard to this. He says he was standing in the balcony of his house and seeing the incidents. He states he saw a mob of Mussalmans bringing out bamboos which were stacked near the church compound, breaking them and stacking them against the western door of the church and that they set fire to it. He was an independent observer and there is no reason to discredit his testimony When the Police atempted to extinguish the fire the mob pelted them with stone and turned them back. The mob again attacked the fire engine and prevented it from operating. Mr.Mc.Nerney (P.W.14) of the fire engine squad who is a Carriage Inspector in the Mysore Railways states that when the fire engine arrived near the tap, the mob began to attack it shouting "We have set the fire, you should not put it out". Mr.Mc.Nerney is aresponsible Railway official and is neither a devotee of this church nor amenable to police ~~xxxxxx~~influence. There is

There is no motive for him to exaggerate things and there is absolutely no reason to disbelieve him. The cries of the mob and their acts preventing the quenching of the fire indicate clearly that they had intentionall y set the fire for damaging church property.

24 All these circumstances establish that the attitude of the mob was to cause damage to the church and to attack whatever Christian they come across. In the early stages they attacked John and Chowri and attempted to beat Francis the driver. Even Sub Inspector Ramachandran was belaboured under the belief that he was a Christian and was let off only when they realised that he was a brahmin. Their frenzy was frenzy such that they attempted to set upon Mr.Van Ingen and Mr.Morris who arrived near the church church in their car a little after 1 A.M. The common object of this assembly of Mussalmans at any rate after 10 P.M. whatever it might have been previously, was to cause damages to the church and its annexures, and defile the shrines therein and to overawe by criminal force the public servants who were attempting prevent the damages and deter them from doing their duty. Thus the assembly was clearly an unlawful assembly within the definition of Section 141 I.P.C. As force and violence were used by this assembly in prosecution of their common object the members of this assembly areguilty of the offence of riotin under Section =146 I.P.C.

25 I shall next proceed to consider the several acts that are said to have been committed by the accused which would constitute offences. As observed above, since the assembly was an unlawful one and as violence was used in prosecution of their common object , such of the accused as are proved to have been members of this assembly would be guilty of the offence of rioting under Section 147 I.P.C. This is a general charge and constitutes Charge No.1 as framed by the Magistrate From 10 P.M. till the dispersal of the crowd by firing at about 2 A.M. the disturbance and acts of violence continued. Consequently whoever among the accused was present in this unlawful Assembly at any

any state during this period and participated in their proceedings would be guilty of rioting. It cannot be said at any rate, subsequent to the initial stages that persons who were in it were mere sightseers or were standing there casually. When the mob had rushed into the Church compound and were throwing missiles indiscriminately, breaking statues and flower pots, hitting the police and other officers, any person who continued to be in the assembly thereafter ~~is said to~~ would be a member of an unlawful assembly. Under Section 142 I.P.C. whoever being aware of facts which render an assembly an unlawful assembly, intentionally continues in it is said to be a member of an unlawful assembly. When violence, mischief and incendiarism had started on the part of the mob it is clear that any person even though he had come into the mob casually must be aware of the fact that the assembly had become an unlawful assembly. If he continued therein subsequently intentionally, he would be a member of an unlawful assembly. It has no doubt to be proved that he intentionally continued to stay in the assembly, i.e. that he took part in the proceedings thereof. A mere unintentional presencesuch as that of a curious spectator or a casual passer by would not amount to culpability. Considering that the rioting occurred in a crowded locality like Irangore, it is not sufficient to show that a particular accused was in the streets at the time the riot occurred or was mixed up in the crowd. To show that the persons in the crowd were themselves among the rioters it is necessary that there should be evidence of something more than their mere presence in the crowd something to show that they were members of the unlawful assembly either in their conduct, acts, or their shouts, such as throwing of stones or brickbats, rushing into the church premises and uttering cries of incitement to the mob or rallying cries or slogans.

96 The committing Magistrate has framed nine charges of constructive liability under Section 149 I.P.C. for various offences

offences in regard to mischief, mischief by fire, hurt etc. These are charges II to VIII, XIII and XIV. Charge No.VII relates to the hurt caused to Chowri (P.W.13) by the mob and all the accused have been charged under Section 323 read with Section 149 I.P.C. It is to be observed that there is absolutely no evidence on record as to who were the members of the assembly when Chowri was beaten. The first police officer who came on the scene is Sub Inspector Laxman and he found Chowri lying injured at the gate. He cannot therefore be in a position to state who all constituted the mob at the time Chowri was injured now are the constables who came subsequently in a better position. The witnesses who refer to the beating of Chowri are : Chowri himself (P.W.13), John (P.W. 12) Francis (P.W.7) and Miss Fonseca (P.W.6). All that Chowri could state is that 20 or 30 Mussalmans came into the church, caught hold of him, beat him and dragged him to the gate. A little later the police came and sent him to the Hospital. He admits he is not able to identify the Mussalmans who beat him. John who was lying down with Chowri in the verandah ran away before the Mussalmans began to beat Chowri ~~in the~~ as they first tackled with John. Francis states that some 20 or 30 Mussalmans were outside the gate when he returned with the car from the Railway Station and that as they set upon him he ran away. Miss. Fonseca states that some 15 or 20 Muhamadans/~~Mussalmans~~ were beating and dragging Chowriand that there was a mob standing outside the gate. She also does not identify any in the mob. According to the evidencethe course of events was that the crowd which was 50 or 60 at first rose to a few hundreds and then to four to five hundred when Sub Inspector Laxman came and to thousands by 1 or 2 A.M. It is possible that the accused came on the scene subsequently. In the absence of proof that the accused were present in the crowd at the time Chowri was beaten they have to be acquitted of Charge No.VII.

27 The next set of acts committed by the mob are the rushing into the church premises, breaking the window panes of the church and Chaplain's quarters, breaking of the statues and the

the electric globe lights, breaking of flower pots and a door (M.O.12) of the Chaplain's quarters. These acts of the mob are spoken to by Sub Inspector Laxman and the Mandi Police Station constables who had come in the scene and Inspector Subbanna. Father Feuga who arrives an Mysore on the next day speaks to the damage caused and has also exhibited photographs taken by him Ex.P2/series) to evidence the damage caused. Since damage was caused to the Church windows, and statues which are held sacred by the Christians were damaged and defiled, the offenders would be liable for an offence under Section 295 I.P.C. They would also be liable for trespass into the church which is an offence punishable under Section 297 I.P.C. It is evident that the offenders must have had knowledge that these acts would be considered by the Christians as an insult to their religion and that the feelings of the Christians would be wounded. These acts would also constitute mischief under Section 427 I.P.C, and criminal trespass into the house of Father Feuga under Section 448 I.P.C. Since these offences have been committed by members of the mob in prosecution of the common object of the assembly view, to cause damage to the church and its properties, they would all be guilty of the commission of the particular offences according to Section 149 I.P.C. These constitute Charges II, IV, V and XIV which go together in respect of this set of acts committed by the mob.

18 The third set of acts committed by the mob are the setting fire to the sheds, and to the scaffolding and destroying thereby the materials and the timber in the stores shed. Connected with these acts is the act of the mob in stacking bamboos against the western door of the church and setting fire to it. I have already observed that there is good reason to believe that fire must have been set by the mob and that it was not a case ofaccidental fire. These acts are spoken to by the police officers, P.S.56 Mannas and other persons who saw the conflagration. The burning of the sheds would come under Section 435 I.P.C. These constitute Charges under Heads III and VI. Anyof the accused who took part in

in the proceedings of that portion of the mob at the stage mischief by fire was caused would all be liable for offences under Sections 435 and 436 I.P.C. as the members of this portion of the mob must have known that these offences are likely to be committed. Unless there is some evidence that they were found at the particular place where the fire was set, it cannot be held that they are liable for the offence of mischief,by fire. If it is merely proved that an accused was a member of the mob in some portion or other, he cannot be connec with the offence of mischief by fire, since he could not have necessarily known that the sheds or the church would be set on fire by other members of the mob. It was not the common object of the mob to set fire to the church. As violence went on increasing a portion of the mob set fire and this cannot have t within the knowledge of the crowds in other portions as an offe.... that was likely to be committed in prosecution of the common object.

29 Next come the acts of the mob in causing hurt to the police officers and the City Magistrate. From the commencement to the end the mob was throwing stones at the police officers and in some cases they were hitting directly. They caused injury to some officers in the first stage when they rushed into the church compound throwing stones and damaging windows etc., In the second stage they pelted stones at the police officers and the members of the fire squad in the Fire Engine when they attempted to quench the fire. In the third stage when the fire engine came into the church the mob rushed in throwing stones and injuring the officers. The members of the mob must have known that by throwing stones and brickbats they would cause hurt. Secondly though a particular accused may not have caused the injury himself, he would still be liable under Section 149 I.P.C. for the hurt caused. It is evident that the hurt was caused to police officers and the fire Squad who are public servants with intent to prevent them from discharging their duty in quenching the fire. The members of the mob would therefore be liable for offences under Section 332. This

This constitute Charges VIII.

30 The charge of grievous hurt under Section 333 I.P.C. arises in respect of the hurt caused to Mr.Guru Dutt the City Magistrate and to Sub Inspector Ramachandran. As regards Mr.Guru Dutt, an injury was caused on his face by a stone which was pelted by somebody in the mob. The wound it is stated was sutured and took 11 days to heal. There is not evidence indicating that this hurt caused him severe bodily paid for 20 days or that he was unable to follow his ordinary pursuits - for 20 days. A scar is left on the face; still it cannot be considered to be permanent disfiguration of the head or face. The evidence therefore does not establish that grievous hurt was caused to Mr.Guru Dutt. What has been caused amounts merely to hurt and the offence reduces itself into one under Section 332 I.P.C. as he is a public Servant and not 333 I.P.C. The injury caused to Sub Inspector no doubt amounts to grievous hurt, ashe had to undergo treatment for 1½ months. But there is no evidence that any of the accused were in that portion of the crowd that surrounded him and caused the injuries. He has identified some of the accused but he admits that none of the accused identified by him hit him and he does not know his assailants. He also states that the accused identified by him were in that portion of the crowd that were throwing stones at the church and were near the sheds that were set fire to. Consequently they could not have been in the crowd that surrounded him and there is no evidence that any other accused were in that crowd. Thus charge XI I relating to grievous hurt reduces itself into one of hurt similar to charge VIII.

31 Then there are four charges against individual accused. Charge No.IX is against A-14 Khader Khan under Section 332 I.P.C. for causing hurt to constable Anthony. Charge X is against A-41 Jamal Sab under Sec.332 I.P.C. for causing hurt to constable Subrahmanyaraj Urs. Charge XI is against A-29 Azeezulla Sha Sec.332.I.P.C. for causing hurt to constables Subramanyaraj Urs and Siddiah and charge XII is against A-9 Abdul Hussain alias Saba

Abdul Hussain alias Saba under Section 332 I.P.C. for causing hurt to Sub Inspector Laxman. It has to be observed that Sub Inspector Laxman who wrote the Station House Diary of the 11th January regarding the rioting incident (Ext.D.12-a), has not entered the name of A-9 Abul Hussain as one of the accused. If his identification and recollection were that Abul Hussain hit him, his name would have been the first name entred by Sub Inspector Laxman in the Diary. While some two other names are mentioned in this first record of the rioting by him, the name of accused 9 is omitted. This circumstance detracts considerably from the statement of Sub Inspector Laxman that A9 hit him. Sub Inspector Laxman was working under great strain that night. He was moving about from place to place and kept very busy. It is likely that this is a case of mistaken identity. He was caught by 3 or 4 and he extricated himself. Further even while naming A9 in court he hesitated slightly in regard to A9's name when he went round the accused in the court to identify them and then named him. Since there is no corroboration that A9 hit him, I consider it safe to give the benefit of doubt to A9 and acquit him of Charge XII. As regards A14, A19 and A29 regarding specific offences of hurt said to have been actually caused by them, there is only the evidence of the person said to have been hit. There is no corroborative evidence. When stones and brickbats were coming from all sides and there was utter confusion, it could hardly have been possible for the person hit, to have noted from whose hand the missile came. Consequently A14, A41 and A29 have to be given the benefit of doubt in respect of Charges IX, X and XI against them respectively and have to be acquitted of these charges. Thus there remain for consideration against accused only charges I to VI, VIII, XIII and XIV.

32 In determining what charges a particular accused is liable for, we have to keep in mind the portion of the mob

mob and the stage at which he was found in the mob according to the evidence. The area of the disturbance may be roughl stated to be a furlong by a furlong. The disturbance went on for nearly four hours. Several incidents took place during that time. It cannot be said that an accused who ma found in the earlier stages when the statues etc., were damaged was present when the fire was set or when the fire-engine was obstructed. It is not also reasonable to hold an accused who was found according to the evidence at the petrol bunk in the south west corner culpable under Section 149 I.P.C. for the charge of setting fire to the sheds on th northern side, as it cannot be said that the accused had knowledge that mischief by fire was likely to be committed in prosecution of the common object.

33 From the general trend of the defence it is seen that it is not seriously disputed that the mob committed during the rioting the offences comprised in the charges as framed. The defence of the accused is that they were not present at the rioting. The most important question for consideration in this case therefore is whether the accused before court took part in the rioting or which of them, if any, took part and to what extent. 76 witnesses have been examined by the prosecution. Out of these 20 witnesses speak to the incidents of that night generally without identifying any particular accused. The remaining 56 witnesses identify one or more of the accused as participating in the rioting. In the nature of the circumstances the majority of the identifying witnesses are Policemen who were engaged in dispursing the mob. The nature of the identification in this case is of three kinds. Firstly there are witnesses who have known some of the accused previously as also their names. The witnesses have named the accused that they saw in the mob to the Investigating Officer at the roll call which he held soon after the riot at about 7 o'clock on the 11th January morning.

Secondly there are witnesses who have known and are acquainted with the accused and their profession, but who do not know their names. These have also mentioned to the Investigating Officer in a rought descriptive way the persons that they saw in the rioting. These witnesses have subsequently identified at the Lock-ups the accused whom they observed in the rioting. Thirdly there are a few witnesses who are neither acquainted with the accused previously nor know their names. These merely identified the accused in the Lock-ups.

34- The F.I.R. which is said to have been written by Mr.Subbanna, Inspector of the Administration Branch in Mysore City, at 3 A.M. immediately after the riot was quelled contain 13 names of accused persons. Out of these 13 two had died on the spot and one died in Hospital by 6 A.M. Out of the remaining 10 two were not included in the Charge Sheet by the Investigating Officer for paucity of evidence against them One other accused Abdul Karim who was the first accused in the Charge Sheet placed before the Magistrate's Court died in Hospital after the Charge sheet was placed. The remaining seven accused who are mentioned in the F.I.R. are A-2, A-3, A-4, A-5, A-8, A-9 and A-10. Inspector Shivram Rao who is the Inspector of the Crime Branch in Mysore who was directed by the District Superintendent of Police to take up the investigation started the investigation soon after 3 A.M. after taking the copy of the F.I.R. from the Inspector Subbanna at about 7 A.M. He held a roll call of all the Policemen who were on duty that night at the disturbance and examined all the constables and the Daffedars and ascertained from them the names of the accused persons whom they could name or identify. On the basis of this information and the F.I.R. he compiled a list of persons who were considered to have been concerned in the rioting. It included according to the Investigating Officer, the names of all the accused before

before court except A-7. These names except that of A-7 ha been disclosed at the examination of these police witnesses at the roll call. These persons were arrested in the cour of two or three days. The Investigating Officer learnt on the 13th January that A.7 had received a gun-shot wound. He was traced and sent to the K.R.Hospital on the 14th January A bullet was removed from his forehead by Dr.Nanjund Rao PW A-7 was included in the list of accused on the 17th January Thus, information regarding the complicity of all the accused before the court except A-7 had been obtained by the Investigating Officer at the earliest opportunity Viz., the morning of the 11th itself.

55 It is no doubt true that much of the evidence regarding the identification of the accused is that of the Police Inspectors, Sub Inspectors, Duffedars and Constables. It was suggested by the learned Counsel for the Defence that the Police were under a duty to implicate and identify some accused or other that they would be under a sort of disciplinary control to support the case put up by their Officers and that their evidence should not be rt relied upon. I cannot concede to any general proposition that the evidence of Policeman cannot be relied or acted upon. It has to be judged on the same basis as the evidence of any other witnesses. The circumstances, the scope for identification and its nature, the existence or absence of any special motive for giving evidence have all to be taken into consideration. In a mob rioting of this sort consisting almost entirely of one community Viz., Muslimans it is difficult to expect private witnesses to come forward as most of them would pretend to have kept away from the unlawful assembly and would not admit that they were present in it at least police suspicion should fall on them. In the nature of the circumstances the best evidence that would be available is that of the police who were engaged in quelling the disturbance.

The Inspector and the Investigating Officer can have no motive to implicate falsely persons against whom there is no evidence of any complicity. Neither is it likely that the subordinate Police officers and the policemen have falsely trumped up - charges against innocent persons. If in any particular instance the police witnesses had any motive or animus, the defence would have brought it out in the cross-examination of those witnesses. It is no doubt possible that in a few instances there is mistaken identity. But these are all matters to be taken into consideration in judging the evidence against each accused and the evidence of the police witnesses cannot be ruled out as biassed or unworthy of credence. In this case it happens that the main contingent of the police force that came on the scene was from Mandy Police Station in which jurisdiction the scene of occurrence was situated. Consequently the majority of the identifying witnesses are policemen of Mandy Station. The constables who have been working in this Station for fairly long periods and some other constables of Devaraj Station who were previously working in the Mandi Station are acquainted with several of the accused and know them also by names. There is nothing unnatural in this since they might have come across one or more of the accused in the course of their duties and have come to know them as all the accused who are living in Mandi, Lashkar and Kamargare were in the jurisdiction of the Mandi Police Station. Most of these witnesses have been cross-examined in regard to the nature and scope of their acquaintance with the accused and many of them have given cogent and convincing answers. They were able, therefore, to give out to the Investigating Officer the names of one or more of the accused whom they observed in the course of the disturbance. After noting the names of the accused so named on the 11th January the Investigating Officer asked the Police Constables to arrest such of the accused whom they know. These constables produced the

the accused before the Investigating Officer between 12th and 16th January and they were arrested. It was argued on behalf of the defence that at the time of the arrest of each accused no mahazar was prepared and no report of the arrest was given. As the offences alleged to have been committed are cognizable ones no warrant was necessary and there is nothing obligatory in the Criminal Procedure Code to ~~xxx~~ prepare a mahazar on arrest. After the accused were arrested they were lodged in the several lock-ups in the police stations in Mysore. Between 17th and 19th January the police constables and other persons were taken in batches to the several lock-ups to identify such of the accused whom they had observed in the rioting. This is not strictly an identification parade. It was only further corroborative information for the Investigating Officer in his investigation. It was argued that an identification parade should have been held and it was merely farcical to take these witnesses to the look-ups and ask them to identify the accused. In a way useful information would be available to the Investigating Officer to pursue his investigation against an accused from the identification by these witnesses. There were 10 or 12 accused lodged in each lock-up. Only a few of them are identified by each witness. So far as the Investigating Officer was concerned this would serve the purpose of an identification parade so far as corroboration for his investigation is concerned. An identification parade is not a procedure prescribed by law and it is not obligatory to have an identification parade. After all, even a regular identification parade is not of much evidentiary value. It only serves as a clue to the Investigating Officer. There is no section in the Evidence Act which makes the identification proceedings evidence at all (1927.All.163). Consequently it is not sought by the prosecution to attach

attach much importance to the identification of these accused in the lock-ups. Further in this case most of the witnesses who are Kandi Station constables as already observed, were - acquainted with the the accused and knew their names and there was no object in holding an identification parade, as they would very easily pick out from even a hundred the persons they had named.

Certain points were raised by the defence inf criticism of the investigation. It was stated that it is sus--picious that only 47 persons out of the mob of three thousand should have been arraigned and that the police have put up people at random. I am perfectly satisfied tht there has been no cooking up or fabrication by the Investigating Officer. He examined all the plicemen and other officers who were present at the d turbance and ascetained the names of all persons whom the witnesses observed to be participating in the rioting. These names of persons regarding whom there was any possiblity of identification or evidence worth the names have been arranged by him in a list on the 11th itself. In thecircumstances he could do no more as no other private witnesses could be expected to come forward. It would have been xxx impracticable to trace all the other persons that took part in the rioting and to collect evidence in regard to them. It would be obviously impracticable to round up all persons in the three mohallas concerned and to collect evidence. This process would have easily lengthened out the investigation which has now been closed within a period of 12 days which is a remarkably short period for a case of this magnitude and would not have served any useful purpose except the dragging on of proceedings in the Courts for any lengthof time and the causing of untold misery to several other people among whom many may be innocent. The argument regarding the arraignment of only 47 accused would not help the accused before court in any manner since the only question is whether they are culpable and it matters very little if it happens that others who are culpable have been let off.

37 It was next argued that it is incredible that the mob consisted of only Mussalmans and that it must have included Hindus also and that it is unsatisfactory that a case should have been put up against Mussalmans only. Almost every witness has stated that the mob consisted almost entirely of Mussalmans The evidence of Morris (P.W.3) Van-Ingen (P.W.4), Father Fauga (P.W.2), Mr. Guru Dutt. (P.W.8), Mr. MC Nerney (P.W.14), Mr. Srikantiah, P.W.15, Mr. Murthi, (P.W.16) and several of the non-police witnesses is to the effect that it was entirely a Mussalman crowd. It is possible that there were some Hindus here and there but they were on the fringes as a few Hindus were found to have been injured by bullets. But there is no evidence that they participated in this disturbance. If Hindues had participated in the rioting, there is no reason for the police to desist from putting up cases against them also. It is to be noted that the origin of the disturbance was the canard that some Mussalman boys had been decoyed into the church for the purpose of sacrifice. Such a canard naturally spread into the homes of Mussalmans in the Mandi and Lashkar Mohallas and Frangere. The complaint at the Mandi Police Station was also given by Mussalmans. It is very likely therefore that they collected in numbers at the Church to vent their alleged grievance and the Hindus took no interest in the matter. It was not really a general kidnapping scare similar to the one that is said to have found currency in Bangalore in a few weeks pseviously. This is after all not pertinent in regard to the question of culpability of the accused before Court.

38 It was very vehemently arged by the learned Coujel for the defence that the investigation was very artificial and that the evidence of the police witnesses is also artificial and bears the inpress of having been tutoree. According to Inspector Subbanna, he preparee the F.I.R. at 3 A.M. and

and delivered a copy of it to Inspector Shivaram Rao of the Crime Branch who had been directed by the D.S.P. to conduct the investigation. Exhibit D15 is the copy of the F.I.R. given to Inspector Shivaram Rao. In this under the column 'particulars of the accusee it is noted " Md. Ghouse and several others (list enclosed)". Exhibit D15-a is said to be the list which was enclosed with Exhibit D15. Exhibit D14 and D14-a are the copy of the First information report and its enclosure sent to the City Magistrate. In the list enclosed with the F.I.R. the names of 13 accused appear. The date noted on the F.I.R., is 11/1/37 - 3.A.M. The date that appears on the list enclosed with it is 13-1-37. On account of this discrepancy between the date on the F.I.R. and that on its enclosure it has been very strenuously contended that the list must have been prepared subsequently on the 13th January inserting some names as it pleased the Inspector and sent that day. Inspector - Subbanna states that '13' is a mistake for '11'. Inspector Shivarama Rao also states that he received the enclosure along with the F.I.R. on the 11th itself and that he has included the names of the accused in the F.I.R. in his list of accused which was prepared on the 11th after he examined the Police witnesses. There are very good reasons to believe that '13' is merely an inadvertant mistake for '11' and that the list is not a subsequent concoction. It is specifically mentioned in the body of the F.I.R. that a list of the accused is enclosed. The list is referred to in a number of places in the substance of the report also. This F.I.R. has been presented to the City Magistrate on the 11th January itself, as is evident from his note on that date. If the list had not been given to him along with the F.I.R. he would certainly have asked for it. Mr. Guru Dutt (P.W.8) the then City Magistrate has not been cross-examined in regard to the date on which he received the enclousures to the F.I.R. Apart from this it would have been futile to prepare a list

Apart from this it would have been futile to prepare a list of some 13 persons on the 13th and present it. The names of as many as ± 50 accused persons had been ascertained by Inspector Shivaram as from the constables he examined and had come on his list of accused on the 11th itself. If the F.I.R. had been ~~prepared~~ prepared on the 13th the names of all the accused which the two Inspectors intended to lug in would have got into the list. There is not point in preparing an F.I.R. with 13 names on the 13th when the names of nearly 50 persons had already been ascertained as being those of the accused, if as argued the Police authorities were making desparate efforts to add in more accused and Mr. Subbanna would not have been so foolish as to prepare an F.I.R. on the 13th with 13 names and run counter to their own object. If it was concocted on the 13th Mr. Subbanna would have anti-dated it as the 11th as it was intended to be an enclosure to the F.I.R. sent on the 11th. This would also involve the position that the City Magistrate also was a party to this fraud as he took a list given on the 13th as if given on the 11th and t is is grossly absurd.

39 It was next argued that as the F.I.R. mentioned only 13 names and the police authorities thought that it would be considered that it was a very unskillful and inefficient investigation if a case was put up against a small number of persons ± 13 out of a mob numbering over 3000, there was subsequently a desparate attempt on the part of the authorities to put in more people as accused. It is contended that the Police authorities put their heads together, took the investigation out of the hands of Inspector Subbanna and gave it to Inspector Shivaram Rao and that this was merely a ruse to cover the in-accuracies in the F.I.R. There is no reason to think that the F.I.R. is in any respect suspicious or that there was an special and desparate attempt on the part of the Police to put in more people as accused.

accused. Afterall, considering the size of the mob which was above three thousand, there is not much difference between 13 and 46 compared with three thousand. The F.I.R. itself specifically mentions the names of 13 persons and it is added at the end "Several other persons ". This clearly shows that only those accused that came under the observation of Inspector Subbanna and whom he could remember were put in the F.I.R. and he has considered that this was only a preliminary list and that several others would have to be added up after further investigation. If there was any the least idea in the minds of the Police Officers to concoct a list, Inspector Subbanna would surely have waited till the close of the 11th and prepared a list after information was secured informally from all the persons that were present there. The list, according to Inspectors Subbanna and Shivaram Rao was prepared at 3 A.M. and as Inspector Subbanna had given it away he could not very well recall it and add to the list of the accused. The further action taken by the Police after the F.I.R. was sent would constitute investigation. The object of the F.I.R. is to send to the Magistrate having jurisdiction at the earliest stage information of the commission of an offence to the extent available. It presupposes that after further investigation more accused persons may be added and chargo-sheeted if the investigation discloses that they have committed the offence. Merely because a name is not mentioned in the F.I.R.it does not follow that subsequent addition is a concoction. In a case of mob rioting of this sort it would be impossible to put in the names of all the accused at the time the F.I.R. is sent without further investigation. According to Section 157 Cr. P.C. the F.I.R. has to be sent before investigation commences and as investigation had to commence immediately in this case Inspector Subbanna prepared an F.I.R. at 3 o'clock itself. All that he has done in it is to enter the names of the persons that he observed. There

There was no necessity at that stage for him to examine other persons who had witnessed the riot as he himself witnessed the incident as noted in the F.I.R. itself. He entered in the list appended to the F.I.R. the names of the persons whom he had observed in the riot and which came to his memory at that stage Under the heading "NO. of offenders said to be concerned " he has entered " Mob of Moslems" which itself indicated that the offenders are very many and have to be ascertained. Strictly, in the F.I.R. form there is no column for names of accused. All that has to be entered is : " name of informant and substance of complainant or intelligence received with date of occurance and names of persons and all circumstances mentioned in connection with the occurance reported". In the list he has mentioned the names of 13 persons and has added the words"and several other persons". There is thus nothing fishy in the F.I.R. and it appears to have been sent in the ordinary course.

40 Against the names of the first three persons entered in the list enclosed with the F.I.R. the words " Since dead " are added at the end within brackets. These three persons had fallen down having been shot with bullets. They were removed to the hospital. Two had died on the spot and the third Md. Gouse appeared to have died subsequently in the hospital at about 6-30 A.M. It is contended that since the words" Since dead" are found in the F.I.R. in the list against the name of Md. Gouse Inspector Subbanna must have prepared the F.I.R. afte 6-30 or 7 A.M. and not at 3 0' clock as stated. It is possible that since all these three had received fatal wounds and had been removed to the hospital in a dying condition he may have noted these words against the name of Md. Gouse thinking that he was dead at the time the F.I.R. was written. Subbanna himself was not questioned specifically in cross-examination with regard to this. After all, it does not appear to matter very much whether it was prepared at 3 0' clock or 7 0'clock, or 10 0'clock as nothing materially turns upon it. It must -

must have been prepared at any rate before the F.I.R. was presented to the City Magistrate' at 11 O' clock. It cannot be that it was prepared of ~~xxxxxxxxxxxx~~ Inspector after Shivaram Rao ascertained the names of several accused from the police constables at the roll call, as otherwise those names could easily have found a place in the F.I.R.

41 It was next argued that the transfer of the investigation from Inspector Subbanna to Inspector Shivaram Rao appears to be suspicious and that the D.S.P. ought to have been examined to explain the reason. Inspector Shivaram Rao was not in his quarters when the rioting took place and had gone to his brother-in-law's house in Sivarampet. At about 2-45 A.M. he received information of the rioting and he went to the spot at about 3 A.M. The D.S.P. who was also there directed him to take up the investigation. The investigation had not yet started and he commenced it at once. Being the Inspector of the Crime - Brach and having no other duties executive and administrative in the city, it must have been thought that he could devote full' attention to the investigation of the case instead of Mr. Subbanna who would be fully occupied in connection with the maintenance of peace and order in the city at a time when excitment ran high on account of this disturbance. There is no room for any suspicion in the Crime Branch Inspector being directed to take up the investigation. The D.S.P. has not been examined, probably because he was not in a position to give any useful information in regard to the identity of any of the culprits.

42 It was next argued that the story of a roll call being held at about 7 in the morning and of the police constables being examined and their statements being taken down is not believable and that the whole thing has been engineered subsequently to give an air of reality to the investigation and that the names of persons have been entered in the list of the accused at random. Inspector Shivaram Rao states that as

as soon as he took up the investigation he examined the City Magistrate and other officiers who were there and asked all the constables to stay there till he held a roll call. He held the roll call of the daffedars and constables at 7 A.M. and examined in all 59 constables and daffedars. He recorded the statements of these witnesses in his investigation note-book and all this took about 4 to 5 hours. There is ample evidence that the police constables were examined that morning and there is no reason to disbelieve all the 40 or 50 witnesses that speak of this. Almost every witness states that the roll call of the constables commenced between 6 and 7 A.M. It is argued that all the witnesses state that they were examined at about 7 A.M. and that it would have been impossible to examined so many as 59 witnesses in the course of an hour. It is not correct to say that all the witnesses state that they were examined at 7 A.M. Some of the witnesses have been specifically cross-examined in regard to the time of their examination and some have not been questioned. Out of those that have been question about it some give the hour as 7, some 8, some 8-30 and so on, for example PWs. 63,52 53 and 68. It was also argued that the ascertaining of the names of accused from the constables was merely a pretence and that merely because a certain name was given it cannot be said to fit a particular accused in court as there may be many others of that name in Mysore City. Inspector Shivaram Rao states that 34 of these witnesses gave him names of the accused and some particulars such as professions and residence of the accused. These were noted by him in his investigation note book. Then he made a list of the accused from the information collected. In the special diary he merely noted a precis nothing against each witnesse the number of the accused whom they named so as to avoid unnecessary scriptory work. There is nothing wrong in his having noted in the special Diary such a brief statement. According to para 212 of the Mysore Police Manual Vol. I it is

is in the investigation note book that the record of an investigation has to be written in sufficient detail to follow the course of investigation while according to para 211 the case diary need only contain a brief statement of the facts related by the witness.

43 It was argued that the investigation note book was a later development as it was produced in the Magistrate's court only on 22-3-37. This is a note book which has to be kept by every investigating Officer under the rules and is the primary record of the investigation. It cannot be doubted that in an important case of this sort the investigating Officer did maintain this record from the commencement. If the court had directed him to produce it, it would have been sent to court. Unfortunately he does not appear to have been questioned specifically in regard to this note book in the city-Magistrate's court or directed to produce it earlier. When he was being cross-examined on 22-3-1937 he stated that he had noted what the witnesses stated in his note book and he had it with him. The learned Magistrate thereafter gave full opportunities to the defence to take copies of statements of witnesses recorded in this note book in accordance with-sec. 162 Cr. Pro. Code, resummoned all witnesses who had already been examined and tendered them for further cross-examination with reference to their statements in this note book. ne defence availed of this opportunity in some cases and dispensed with cross-examination in others.

44 Since the constables who knew the particular accused gave out their names as well as descriptive details of their profession, residence etc., it would not have been difficult to fix fixupon the accused persons. Further the Investigating Officer directed the constables who were acquainted with the accused named by them to produce them and they did so in the course of two or three days. Thus, there could be no difficulty about the identity of an accused before the court with

with the name given out by a particular constable witness. The real question is whether the evidence of that particular constable witness that an accused whom he identifies was a participator in the riot is believable. All that the investigating Officer in this case has done is to prepare a list of the accused on the information ascertained by him from these constables witnesses. It cannot be said that there is any connection in this or that the investigating Officer inserted the names of the persons at his whim. There is also no basis fo the contention that the police witnesses are under mandate to giv evidence in a particular manner. On the other hand, it is from the information furnished by them to the investigating Officer that he prepared a list of the accused. No doubt there are some inconsistencies and contradictions in the depositions of the witnesses. One or two have also attempted to overdo their part such as P.W.-41 Javariah who states in this court tha he saw A-21 actually set fire to one of the sheds, while he did not make any such statement in the Magistrate's court. Some inconsistencies are natural in a case of this sort. Merely on account of a few descrepancies the entire prosecution case cannot be brushed aside as being unreliable.

45 It was very vehemntly argued that if these policemen had observed some of the accused during the rioting they would have given out the names and informed details at once to the Sub-Inspectors on the spot or to the Inspector Subbanna who is said to have instructed them to keep a note of such of the-rioters as they could identify for taking proceedings against them and that they would not have kept quite till the roll call in the morning. There were only two Sub Inspectors on the spot and one of them Ramachandran had been very seriously injured and taken to Hospital and the other, Sub Inspector Laxman also-received injuries. The mob had dispersed about 2 or 2-30 A.M. and in the nature of things it would have been impossible for

for Inspector Subbanna to go about with his note book and record the statements of these constables or ascertain the names of the rioters from them. While the Church was burning and Officers were being hit was it the time to go about questioning the constables about the names of the rioters and would any Officer in his senses do it ?. His attention was all engrossed in getting the fire engine into the church to quench the fire and in trying to disperse the mob. It is only when the investigation starts that he can examine them and record their statements and the names of the accused.- Before the investigation started he had to prepare the F.I.R. and this is what he did as soon as the disturbance was quelled. By the time F.I.R. was prepared Inspector Shivaram Rao was directed to take up the investigation. He took charge of the - investifation at about 3 O' clock and he went on examining the several Officers that were there till about 6 A.M. Subsequently he has come to the examination of the constable witnesses. It would neither be natural nor the proper procedure for every- constable to go up to Inspector Subbanna wherever he was or whatever he was doing, to tell him that he observed such and such persons. In the circumstances that existed at the time the disturbance was quelled it would have been impossible for Inspector Subbanna to go about with his note book. His first concern was to see that the injured are sent to hospital and to arrange sufficient safegaurd and take precautionary measures against a recurrence of the trouble either in the same - locality or elsewhere. The interval between the dispersal of the mob and the writing of the F.I.R. by Inspector Subbanna was not even ~~xx~~ half an hour. Since the investigation was started by Inspector Shivaram Rao immediately, there was no point in Inspector Subbanna going about to collect information from these constables as Inspector Shivaram Rao who was investigating was the proper person to do it. In fact he had asked the - constables to stay there till he examined them. There was no

no opportunity or necessity for Inspector Subbanna to question the constable or for them to have the accused named to him.

46 It was next contended that the rioters were not arrested then and there but were got up by the policemen a few days afterwards at their sweet will and pleasure. The evidence that immediately after the Reserve Police fired, the mob dispersed. For the previous 5 hours the police were at great pains to disperse the mob. It would have been an impossibility to arrest the culprits at that stage and it would have been foolish to attempt any such thing as the mob consisted of about three thousand persons while the police were about a hundred and any such attemptwould have infuriated the mob all the more and would have ended in more disastrous results. The policemen were acquainted and also knew by name the particular accused and persons whom they had observed and so it would have been easy for them to arrest subsequently those persons as they would be the best person to spot out the accused. There is nothing irregular or suspicious in this procedure which was adopted by the investigating Officer.

47 It is contended that if the police had given sufficient descriptive details of the accused persons to Inspector Shivaram Rao he would have ordered their arrest immediately on the 11th Jan. itself and as these were arrested only between the 13th and 16th Jan. the investigating officer was not certain of the identity of these persons. There was precious little delay in the arrest of these persons. He has gone on with the examination of witnesses on the 11th . He had to arrange all the information gathered by him which consisted of over 70 or 80 pages in his note book. He had to verify and consider about the sufficiency and the nature of the evidence against the accused before he could take further action. On the 12th also he examined some witnesses in places round about the church and in 'Lourde's Nagar. He had asked the constables that had named the accused to produce,

produce them. On the 12th itself 12 accused were produced by several constables and these were arrested. Nearly 24 were arrested on the next day, i.e., 13th Jan. It cannot therefore be said that there was any special delay in the arrest of the accused to give room for any suspicion.

48 It was argued that only people of the lower social strata such as cart-drivers, jutka-wallas, porters, hawkers and petty shopkeepers have been put up as accused and that this has been done designedly in order to facilitate an easier identification on the part of the police constables. It is stated that people of substance or of a better social rank have been omitted and that as the constables would be acquainted with these lower class people thay have been put in. It is obvious that people of substance or social standing or of any respectability would naturally desist from joining a mob-rioting of this sort. It is only people who have no stake or of the lower rung and rowdies that would not mind joining for causing such a disturbance as this. It is admitted that it was an ignorant and uneducated rabble. It cannot therefore be expected that people of substance or of education could be found in the mob. It is possible that few people of worth and education pull the strings from behind the screen, but the investigation cannot be blamed for it as it may not be possible for the investigating Officer to place sufficient evidence against them of a convincing nature.

49 Mr. Sreeinivasa Iyengar strenously animadverted upon the act of the authorities who were on the spot in ordering fire to be opened on the mob. It was argued that there was no necessity to order fire and kill innocent persons, that the police were merely dallying with the crowd for two or three hours and that if the authorities had called in the Military early the crowd would have melted away at the mere sight of the Military. The loss life is regrettable and it is also a matter for regret that the occasion for firing should have arisen. We are not very much concerned in this case with this case about

about the ~~propriety~~ propriety or otherwise of thefiring. But it has to observed that this argument does not take serious no of th circumstances that existed when firing was ordered. The mob had caused damage to the church and the Priest's quarters and set fire to the sheds. They had injured a very large number of police men & officers and also the City Magistrate himself. Stones and brickbats were being thrown indiscriminately. They prevented the fire engine and the police Officers from quenching the fire. It had gathered strength to the extent of about 2 or 3 thousand. When the fire engine entered the church compund at its third attempt the entire mob made a rush into the church compound ina very agressive attitude. As imminent danger to life and proper was apprehended, the City Magistrate Ordering firing. But for this act, very likely, the mob would have annihilated the few police men and Officers that were there and created considerably greater havoc. The police and the city Magistrate thought for some time that by persuation and such means the mob could be made to disperse. It was only when their violence increased and danger to life and property was apprehended that firing was ordered The argument that if the Military had been called in earlier the mob would have melted away at the mere sight of the Military is not very convincing. It is an arm chair argument to suggest now after the incident is over that this might have been on that night have been done to disperse the mob. The mob would not listen to the persuation of the City Magistrate and the Police. On the other hand they found their presence irksome as the mob could not have their own way in causing havoc in the church and violence increased everywhere. It is possible that if the leaders of the Mussalman community had come out and given counsel the mob may have listened to them; but no such persons came. All efforts were made for four hours to disperse them by peaceful means. It was only when the situation became entirely uncontrollable and there arose imminent danger to life and property at the hands of the mob that firing was ordered. The evidence discloses that necessity had arisen for firing

firing and it was justified in the circumstances that existed even the provisions of the Criminal Procedure code in chapter IX contemplates the use of Civil Force only in the first instance to disperse unlawful assemblies(Sec. 128). It is only when such assembly cannot be otherwise dispersed that the military has to be called in (Sec.129). If the Civil authorities could disperse a mob by using such force as may be necessary, it is not desirable to call in the Military as this might create an exaggerated impression of the affair in the public mind, once the necessity for resisting to fire arose, it does not matter much whether the Reserve police is ordered to fire or the Military. This was not a mob which would melt away at the sight of the Military. If the Military had come into a mob of this sort there would very likely have been greater loss of life and injury to persons. The mob would not disperse even when the Magistrate gave warnings that firing would be restored to and even when they saw the Reserve police there, fully armed. It is therefore somewhatt futile to argue that there was no necessity for the Reserve police to fire. The circumstances were such that the Military would also have been forced to use fire to disperse the mob and if they had fired there would certainly have been very many more casualities. It is unnecessary to lavour on this point very much as it is not very pertinent to the present enquiry.

50 It was pointed out by mr Srinivasa Iyengar that the firing is said to have been restored 15 because the mob rushed into the compound but that the firing was not directed against the mob in the compound but outside. Inside the compound there were the City Magistrate and other Officers ans also many policemen mixed up in the mob. It would have been absolutely foolish on the part of the Reserve police if they had fired inside because there was as much chance of their hitting friends as of foes. Merely because the persons who had bullet wounds were found on the western side of Dodpet it cannot be said that the firing was directed in wrong direction. It is not unlikely that the people who were hit were at the church compound wall or

or the gate or even inside and attempted to run away and they fell down as is the case with A-7 who went away and hid himself in his house till the 14th Jan. with a bullet lodged in his forehead. It cannot be iferr that the shots were all directed in wrong directions. The is no doubt that some at least of the shots must have been directed against the mob because there have been at least t casualities ascertainable, though some shots out of the 32 re from bullet shots. The very fact that the mob dispersed immediately after the firing shows that the fi-ring was effective, whatever the -- direction of the firing may have been.

51 It was stated that none of the accused were identified by persons whose evidence can be considered more credit worthy and that all the identifying witnesses are only plicemen. It is stated that persons like Mr. Srinivasan, Municipal President and the D.S.P. Mr. A. Rangaswami Iyengar have nc been examined and that other witnesses like the City Magis trate, the Station Master and officers of the fire engine have not been able to identify any of the accused. Fr the condition in life of the accused it is obvious that the witnesses referred to who reside quite apart from them and who are entirely separated from them in social status would not be in a position to be acquainted with and identify any of the accused. Ordinarily in such a crowd as this a man would be able to identify only persons who are his acquaint ances or of a similar social status, unless there are some very exceptional reasons for his observing and noting in hi mind the acts of any particular person. Further if it was a case of one or two persons committing an offence and a person sees them, there is a greater probability of an im- pression being created in his mind and his retaining it in memory. When one sees hundreds and thousands of faces in a mob rioting of this sort it is well nigh impossible for one to note with precision and to recollect any person that he saw there with whom he was not particularly acquainted

or whom he had not ~~previously~~ known previously.

52. Out of the 76 witnesses examined for the prosecution leaving out 22 witnesses who do not identify any particular accused but merely speak to the incidents that took place and of formal matters like the doctors and the investigating officer, there are 54 witnes who identify one or more of the accused. It is no doubt true that except 8 of these witn sses the remaining 46 identification witnesses are plice officers and policemen. The principal and the most vehement argument of the learned counsel for the defence against the credibility of the prosecution evidence is that the evidence consists mainly that of policemen and no weight should be attached to it. I have already observed that the evidence of a policemen cannot be rejected as being incredible merely on that ground of his office. It is to be judged by the same standards as the evidence of any other witness. Except in an instance or two to which reference will be made when the evidence against each individual accused is considered, there has not been a suggestion, either during the cross-examination of the prosecution witnesses or in the defence evidence of any animus between the police witnesses and the accused, or any motive which would have prompted them to falsely implicate the accused. There are very nearly 50 of them who have been examined and it cannot be said that they are all obeying any mandate of their superior officers to give false evidence. Among these witnesses there are mussalmans also and among the accused are a few who are related to these police witnesses. Where is the motive for them to speak falsely against their kith and kin and members of their own community? Where is the motive for the Inspector or the Police Officers who are responsible for the investigation to trump false charges against innocent persons? None has been suggested and no suspicion attaches to the course of investigation.

It would be foolish to suggest that this was a ruse of the Police to extract money by implicating people, because admitted by all the accused are poverty stricken. It is not a convincing argument th t the accused have been falsely implicated to preserve police prestige. In the circumstances of the case the best evidence that can be expected is from the police officers who were moving about in the thick of the crowd and who had opportunities of observing the participato in the riot. It cannot be expected that Mussalmans who were in the crowd and who probably tacitly sympathised with the crowd would come forward to give evidence against these accused them. A few other officers like the City Magistrate and others who were present at the scene could not for obvious reasons identif any of the accused. They had no previous acquaintance with these people and can hardly be expected that they could recollect the thousands of faces that they saw in the confusion of that night. The police witnesses are mostly of the Mandi Station in the jurisdiction of which the localities where large numbers of the mob are living, or situated policemen of other stations who had previously served in the Mandi Station. These Policemen had naturally opportunities of coming into contact with one or more of the accused and knowing them. Some of the witnesses are well acquainted with one or more of the accused and know their names. Some other witnesses have seen one or more of the accused a number of times previously and could identify them though not knowing their names. As already observed by me, remembering the condition in life of the majority of the persons that assembled there for rioting, it is no doubt easier for the policemen who moved about and mised with those persons, to identify them. It has to be observed that the police by the very nature of their work which consists of constant observation of offenders and tracing and surveillance of suspects, get a special training or habit for remembering faces and identifying persons.

53 The crowd dispersed at about 2 a.m. and the constables

who were there, were all posted here and there round the Church premises for guard, and the investigation commenced immediately afterwards at 3 a.m. The constables were all detained there and were required to be there till they were examined. They were examined some 5 or 6 hours later in the morning. In the circumstances it is abundantly clear that these constables would have had no opportunity of concocting evidence or getting up names of accused persons. The impressions of the faces familiar to the constables which they saw some 6 or 7 hours back would have been still vivid in their mind. Consequently they were in a position to state to the investigating officer the names and particulars of the accused whom they knew and saw among the rioters. This circumstance would go to a great extent to add to the credibility of these police witnesses. It is no doubt possible that there may be a few cases of mistaken identity and this is a question to be determined on all the evidence against each accused. Further since the constables had all been detained there and examined within some hours of the rioting no constable could easily have dared to risk mentioning names at random because it might turn out that a person named was not in Mysore at all. Consequently every constable would have named the accused realising the responsibility and the gravity of the situation. Further they had no motive to implicate persons at random, even though not present in the rioting, apart from cases of mistaken identity.

54 An argument was raised that none of these constables are able to identify the accused or persons other than those named by them and who were with those persons named and also that they are not able to state details as to the order in which they were exained at the roll call or the accused who were in a particular lockup at the time the witnesses were taken there for identification. Those are not facts in issue and are somewhat irrelevant details. If they had constituted the facts in issue, it is possible their mind and

and attention would have got rivetted on those circumstances and they would have been able to depose regarding them . In this case there was a serious rioting and it is the duty of every policemen and one of his primary duties to take note of offenders and bring them to justice as laid down in the Police Regulation Section /48 (i-b) - " Every Police men shall to the best of his ability obtain intelligence concerning the commission of cognizable offences or -- design to commit such offences and report such information and take such other steps consistent with law and with the orders of his superiors as shall be best calcu-lated to bring offenders to justice or to prevent the commission of offences." Besides this, it is in evidence that Inspector Subbanna had directed these constables to keep note of such of the rioters as they knew so that proceedings might be initiated against them. There is nothing therefore surprising or unnatural in these constables observing the acts of such of the people whom they were acquainted with and keeping them in mind for reporting to the Inspector in due course. It is obvious that when the church was burning and constables were being hit and the crowd was thick, rushing here and there, no constable could have gone on keeping paper and pencil and note the names of several rioters after ascertaining their names. Each constable fixed in his mind only those whom he knew well or had seen previously and fairly frequently. With these observation in regard to the nature of the prosecution evidence and the weight to be attached to it, I shall proceed to a detailed consideration of the evidence adduced by the prosecution against each accused and his plea.

A-1. Abdulla Sab.

He is bullock cart-driver and is a cooly in the Mandi Market where he carries bags. Pw.33 Abdul Azeez P.W.39 Joseph, P.W.47 Anthony who are constables attached to the Mandi Police station, and P.w.54 Krishniah a constable who had previously worked in that station state that the 1st accused was in the r oting. They are all acquainted with him and know his name also. P.W.24 Gundiah a P.R.P. constable who has previously seen him but does not know his name states that A.1 was rushing in and throwing stones. There is no reason to discredit the testimony of these witnesses especially as one of them is himself a Muhammadan A-1 states that he did not go to the scene of occurrence that night. His plea in this court is that he left for gargeswari at 9-p.m. with his bullock cart. But this was not stated in the committing Magistrate's court. One witness Md. Peer (D.W.36) has been examined to show that he hired the car of A-1 that night to go to Gargeswari to see his father-in-law. It is extremely doubtful that he went in the bullock cart the whole night to Gargeswari when Buses would take him there in a few hours. This specific defence was not pleaded in the Magistrate's court and appears to have been got up in this Court and no reliance can be placed upon it. The evidence against him is strong and there is no reason to discredit the five witnesses who speak to his participation in the rioting. P.W.24 Gundiah and Pw.47 Anthony state that A-1 was pelting stones and trying to rush in. PW.33 states that he says that he was pelting stones and beating -- with bamboos. P.W.39 says that A-1 was throwing stones at the church. P.W.54 says that A-1 was throwing stones at the church and obstructed the fire engine from proceding. It is clear from this evidence that A-1 participated in that portion of the crowd which caused damage to the church, and the Priest's quarters. Consequently he would be guilty

guilty of charge I the genreal charge of rioting under Sec.147 I.P.C. and also charges II, IV, and XIV i.e. offences under Sections 295, 297, 448 and 427 I.P.C. respectively read with section 149 I.P.C. The damage caused by the mischief is very much more than Rs.50 and the offences committed by these accused would come under section 427 I.P.C. Since the fire engine was prevented from quasing the fire and also to the policeman and hurt was caused to the members of the fire squad who are public servants, by intentionally hurling stones and brickbats against them, and they were deterred from doing their duty. an offence under Sect on 332 I.P.C. has been committed in prosecution of the common object of the unlawful assembly. Since A-1 was a participator in the crowd that obstructed the fire engine and caused hurt to public servants to deter them from discharging their duty he is also guilty of an offence under Section 33 2 I.P.C. read with section 149 I.P.C. He is therefore guilty of the offence under charge VIII also. There is no evidence that he was found in the vicinity of the sheds or he places where fire had been set and consequently he would hot be guilty of the offences of mischief by fire and offences under sections 435 and 436 I.P.C. i.e. charges III and VI.

The assessors have been of the unanimous opinion that he is guilty of charges I, II, IV, V, VIII and XIV and not guiltyof the other charges. Agreeing with the unanimous opinion of the assessors I find A-1 guilty of offences under Sections 147, 295/149, 297/149, 448/149, 332/149 and 427/149 Charges 1, II, IV, V, VIII and XIV) and not guilty of the other charges. As regards the sentence it has to be observed that the offences that the accused have committed are serious ones. In an open and crowded locality of Mysore they have taken the law into their own hands and caused considerable damage to a venerated edifice which is being constructed at a very great cost. The seriousness of the offences would call for a fairly severe sentence. But it has to be remembered also that the accused did these acts in the heat of the moment and not

and not as cold-blooded vandals and incendiaries. There was no premeditation or pre-arranged plan for causing damage to the Church. A rumour spread that Muhammadan children had been taken into the church for sacrifice. A small crowd collected initially and the numbers gradually swelled. They got infuriated at their not being able to enter the Church-building and in the heat of passion committed these acts. There is also the fact that these accused have been in the Jail as under trial prisoners for almost six months. Taking into consideration all these circumstances I would consider that a sentence of two years' rigorous imprisonment in all would meet the ends of justice. I convict A-1 Abdulla Sab of the above offences and sentence him to undergo rigorous imprisonment for two years for the offence under section 147 I.P.C. to two years.

R.I. "	295/149	I.P.C.	One year.
R.I. "	297/149	"	One year.
R.I. "	448/149	"	Two years.
R.I. "	332/149	" and	Two years.
R.I. "	427/149.		The sentences will run con-

currently. I acquit him of the other charges.

56. A-2 Md. Khasim:-

He is a boy of 18 years employed in a Cycle Shop in Mandi Mohalla. His name is found in the F.I.R. P.W.27 Duffedar Sivaprasad, P.W.32 Ramachandran, P.W.73 Inspector Subbanna speak to his presence in the riot. There is no reason at all to discredit their testimony. P.W.27 and 73 have seen him previously and know him. P.W.32 has seen him previously but does not know his name. A-2 admits that he had gone to the spot that night, that he went there to see what was going on and did not throw stones. He is one of the persons that received a gunshot wound. He was taken to the Hospital in the morning itself. Exhibit P.3 is the entry

entry in the Accident Register and P4(g) is the wound certifica He underwent treatment in the Hospital for many days. There is not the least doubt that he was in the mob. P.W.27 says that A-2 was throwing stones on the Church and the Police and on the globe lights and inciting the mob. P.W.73 says that A-2 was pelting stones and brickbats. P.W.32 says that this accused was seen by him at the place where the shed was set on fire. As he was throwing stones on the Church and the police he would be guilty of offences under sections 147, 295/149, 297/149, 332/149 and 427/149 and 448/149 I.P.C. Since there is evidence that he was near the sheds which were set on fire, he would be guilty of the offence under Section 435/149 I.P.C. All the assessors are of opinion that A-2 is guilty, but there is a slight difference in the number of charges. Four assessors are of opinion that he is guilty of charges I, II, IV, V, VIII and XIV, while three others opine that he is guilty of charges I, II, V - I, IV, V - I, II, V and VIII respectively. I agree with the opinion of the majority of the assessors and I find A-2 guilty of charges I, II, IV, V, VIII and XIV. I find him - guilty in addition of charge VI. So I find A-2 guilty of offences under Sections 147, 295/149, 297/149, 448/149, 435/149, 332/149 and 427/149. Considering the fact that he has had already a very severe punishment by way of a bullet shot injury which necessitated his stay in Hospital for a fairly long period and also the fact that he is still a young boy of 18 years, a sentence of one year's rigorous imprisonment would meet the ends of justice. I convict him of the offences mentioned above and acquit him of the other offences. I sentence him to undergo 1 year's R.I. for each of the offences under Sections 147, 295/149 297/149, 448/149, 332/149 and 427/149 I.P.C. and to one year's rigorous imprisonment and a fine of Rs.25/- or in default to one month's R.I. under Section 435/149 I.P.C. The substantive - sentences will run concurrently.

57- A-3 Gulam Ahmad (alias Babu):-

A-3 is a boy of 20 years employed in a shop in Mandi Mohalla. His name also finds mention in the F.I.R. P.W.27 Sivaprasad P.W.32 Ramachandran, P.W.66 P.C.Aralappa P.W.73 Ins.Subbanna speak of his presence in the riot. They all knew him previously and three of them know his name also.. There is credible evidence against this accused. A-3 states that he was coming from the Cinema and that he recieved a bullet wound. This accused was found injured by a bullet shot and was removed to the hospital where he underwent treatment. Ex.P.W.bb and P.4 as are the entries in the accident register and the wound certificate. There is no doubt that he must have been participating in the riot. The evidence against him is that he found throwing stones on the church, lights and the Police and also obstructed the fire engine. He would therefore be guilty of the charges I, II, IV, V, VII and XIV. Four of the assessors are of opinion that he guilty of these charges while one opines that he is guilty of charges I, II, IV and V only, while two others opine that he is not guilty. I agree with the opinion of the majority and find him guilty of the offences under Sections 147, 295/149, 297/149 448/149, 332/149 and 427/149 I.P.C. I convict him of these offences and acquit him of the other offences. For the same considerations which apply to A-2, I sentence A-3 to one year's R.I. for each of the offences of which he is convicted, the sentences will run concurrently.

58.A-4 Abdul Sattar

He is 25 years of age and is said to be working in a perfume distillery. His name also appears in the F.I.R. P.W. 47 F.C.Anthony, P.W.48 Chatrasingh P.C.P.W.72 S.I. Laxman and P.W.73 Ins.Subbanna a speak to his presence at the rioting. Pw 48 did not identify him in the lower court but there is no reason to disbelieve the Sub Inspector and the Inspector.

At this accused is a K.D. they are in a position to know him well and they must have observed his presence in the riot. In the K.D.Register Ex:D.13 it is mentioned that A-4 was found that night in his house at the time checking. It was argued therefore on his behalf that he was at his house and could not have been in the riot. The checking of K.Ds. is at about 11 P.M. and as his house is fairly near to this spot it is not impossible for him to have come to the church after the checking. The evidence against him is credible and there can be no doubt that he participated in the riot. The evidence is that he was throwing stones and brickbats. He could consequently be liable for charges I, VIII and XIV. Five of the assessors are of opinion that he is guilty of these charges I, II and IV only and another assessor opine that he is guilty of one charge only. I find A-4 guilty of offences under sections 147, 332/149 and 427/149 I.P.C. I convict him of these offences and acquit him of the other offences. For each of the offences under Sec.147, 332/149 and 427/149 I sentence him to undergo R.I. for two years. The sentences will run concurrently.

while are other assessors that he is guilty of

59. A-5 Syed Hussain.

He is 35 years of age and a peppermint vendor residing near the P.R.P. lines. His name also appears in the F.I.R. There is very strong evidence against him. P.W.18 Subedar Saniulla, P.W.21 (John P.C.) PW.51 Ningiah, PW.62 Ahmud Khan, PW.72 S.I Lakshman and PW.73 Subbanna speak to his participating in the riot. A-5 merely states that he had boils and was in the house that night but there is no proof of this. There is credible evidence that he was participating in the riot. The evidence against him is that he was rushing from side to side peltin stones and brickbats on the church and the fire engine

He would be liable for charges I, II, IV, V, VIII and XIV. Five of the assessors are of opinion that he is guilty of the above charges. The others also are of opinion that he is guilty but only under four charges. Agreeing with the view of the majority I find him guilty of offences under sections 147, 295/149, 297/149 448/149, 332/149 and 427/149 I.P.C. and convict him of these offences. I acquit him of the other charges. He is sentenced to 2 years' R.I. for each of the offences under Sections. 147, 295/149, 332/149 and 427/149 and to one year's R.I. for each of the offences under secti 297/149 and 448/149 I.P.C The sentences will run concurrently.

60. A-6 ~~A-6~~ Md. Seniulla:-

He is aged 35 and is employed in the Railway work shops at Ajmer. He is living with his brother Subedar Seniulla P.W.18. in the P.R.P. Lines. The evidence against him consists of :- that of P.Ws.42 Rama Rao P.C. 51 Ningaiah P.C.56 Vet.Inspector Mannas. The first two know him and name him, while the third has seen him previously and identifies him. Vet.Insp.Manna lives in a house opposite the church and facing east. It has a balcony ~~in the~~ upstairs from which he says he was looking at the incidents in the church. He definitely identifies this accused as running on the road crying out "Panika Motor Rokho" i.e. "stop the fire engine" and that A-6 was one of those that obstructed the fire engine at the tap in the north-west corne of the church. Mr. Manna is an official in the Municipality. He is not a Roman Catholic and cannot be said to be interested in this church. He is not connected in any manner with the police either and there is no reason at ~~all~~ all to discredit his testimony. He has no motive

motive to implicate this accused falsely. The defence is th t this accused wzs staying in the house and did not come to the church. When P.W.18 Subedar S aniulla came to the church with his contingent at about 10 P.M. -- (P.W.18 states) he found his brother A-6 at home. SubsequenItly when Pw.18 went home again after the rioting at about 3-30 A.M. he found his brother in the house. It is also stated by the accused that some constable came and took his hat to give it to the D.S.P. as his hat had been knocked off in the crowd. Granting all this is true it is not impossible for him to have come to the church the constable. The P.R.P. lines are about a furlong from the church and it is very likely t at he came to the spot after the constable came and took his hat. The evidence against him is credible and strong. He is said to have thrown stones and to have obstructed the fire engine. He would therefore be guilty of offences under Charges I, VIII and XIV. All the assessors except one are of opinion that he is guilty of one or more of the charges while one opines that he is guilty of one or more of he charges while one opines that he is not guilty. Agreeing with the majority view I find him guilty of offences under Sections 147, 332/149 I.P.C. and 427/149 I.P.C. I convict him of these offences and acquit him of the other charges. I sentence him to two years' R.I. for each of the offences under sections 147, 332/149 I.P.C. and Section 427/149 I.P.C. The sentences will run concurrently.

61. A7 Syed Ibrahim:-

He is 40 years old and an electric lineman in the Mysore Power and Light office and lives in Erangore. This accused's name was not mentioned to the investigating officer by any of the constables at the roll call on the 11th January.

The investigating officer got information on the 13th that a man named Syed Ibrahim had received a bullet injury. A7 was found on the 14th and sent to the K.R. Hospital. His name was entered in the list of accused by the Investigating Officer only on the 17th. It is evident that his name came to be on the list of accused merely on the basis of the inference that he must have been in the mob since he had received a bullet would. P.W.26 Sesha Iyengar identified him only in the Hospital and did not mention him at the rollcall. P.W.49 Lakshmaiah states that he gave his name to the investigating officer, but this is false. The defence is that A7 had been posted for duty that night at the staff quarters that after finishing his duty there he was going home at about half past 12 and while coming near the Aswathakatte in the northwest corner of the Church he received a bullet shot. P.W.57 Head Inspector Ranga Rao states that A7 had been assigned duty from 6.30 P.M. till 10 P.M. on 10/1/37 at the Staff quarters and that he was onk duty till 10 P.M.. D.W.3 Krishniah whoxx is an operator states that A7 had been instructed to attend to the lights etc., at the staff quarters till the guests there went to bed. The guests of the Y.M.C.A World conference which was held in Mysore at that time were lodged in the staff quarters. As he had to stay till all the guests went to bed it is not impossible that he, left the place late and was coming home after midnight. The defence appears to be credible. The very fact that none of the prosecution witnesses names him at the roll call shows that they could not have seen him at the riot and there is a miataken identify.

There is also the corroborative fact that he could not have been in the mob and that he must have been fairly faraway. A bullet had pierced through the forehead but had not imbeded at the bone and had not pierced the skull. This would indicate that the bullet had spent much of its force by the time it hit him. The

The place where it hit him is such that if the bullet had pierced throughm ut would have veen fatal and is purely providential that he survived. It is very probable therefore that he was at the Aswathakotte when the bullent hit him and this is at some distance from the place where from one of the P.R.P. Sections fired. The benefit of doubt is therefore given to A7. All the assessors are of opinion that he is not guilty of any charge. I agree with ~~him~~ them and find him not guilty and acquit him of all the charges.

62. A8 - Md. Ibrahim alias Baba:-

He is aged 35 years and a tonga driver in Irangere: His name is found in the F.I.R. He is mentioned as having been seen in the rioting by P.W.24 ~~R~~ Gundiah P.R.P. constable. P.W.27 duffedar Shivaprasad, P.W.52 Brookes, P.C. and P.W 73 Inspector Subbanna and he is known to these people. There is no reason to disbelove them. A8 says that he had gone to Yeeatore to bring horses, but there is no evidence to support. He is stated to have been throwing stones and brickbats on the church and on the ~~xxxpkx~~ police and trying to rush in. He is guilty of charges I, II, IV, V, VIII and XIV. Three of the assessirs are of opinion that he is guilty of the above charges ~~xxx~~ two that he is guilty of only charges I, II, IV and V and two others that he is guilty of charge I. I find him guilty of offences under Sections 147, 295/149, 297/149, 448/149, 332/149, and 427/149. I convict him of these offences and acquit him of the other offences. I sentence ~~h~~ A8 to undergo two ~~x~~years' R.I. for each of the offences under sections 147, 295/149, 332/149 and 427/149 ~~xx~~ and to one year's R.I. for each of the offences under Sections 297/149 and 448/149 I.P.C. The sentences will run concurrently.

63. A9 Abdul Hussein alias Saba:-

He is aged 24 years and is working in a beedy godown and lives in the Police lines. His name is also found in the F.I.R. P.W.23 Seethiah, P.R.P. constable P.W.42 Rama Rao, P.C. P.Ws 49 Chatra singh P.C., 72 S.I. Laxman and 73 Inspector Subbanna mention that he was present in the rioting. There is a separate charge against him under Section 332 I.P.C. for acausing hurt to S.I. Laxman. I have already observed that there is no evidence in corrobation f S.I. Lakshman's evidence as regards this accused causing him hurt. He is given the benefit of doubt, and is acquitted of that charge. There is one other witness who has merely indentified him. The evidence of all other witnesses amply proves that he participated in the rioting and therei is no reason to disbelieve them. A9's plea is that he had gone to Kalur on that night and returned on the 13th January and that he was at Kalur all that time. His father D.W.49 who is a P.C. has been examined. A9 appears to have written a letter to his father from Kalur and this letter has not been produced. His fathee now says that he searched for it and could not find it. The accused was arrested on the 15th and his father who is a P.C. must have been aware that the letter was very valuable evidence proving the alibi of the accused. He must have preserved it if the story were true. The plea of alibi is not established and thereis mple evidence against him. He is said to have been hrowing stones and brickbats on the Church and the ire engine. He would therefore be liable for charges , II, IV, V, VIII and XIV. The assessors are unanimously f opinion that A9 is guilty of charges I, II, IV and XIV nd some of the assessors add one more charge. I find im guilty f offences under Sections 147, 295/149, 297/149,

448/149 and 427/149 I.P.C. I convict him of these offences and adquit him of the other charges. I sentence him to undergo R.I. for two years for each f the offences under Sections 147, 295/149, and 427/149 I.P.C. and to one year's R.I. for each of the offences under section 297/149 and 448/149 I.P.C. The sentence will run concurrently.

64. A10 Abdul Sammad alias Basha:-

He is aged 40 years and is a snuff seller in Kantharaja Urs Park. His name is found in the F.I.R. P.W.28 Kachiah, P.C. P.W.44 Sivananjiah P.C. 75 Erayya P.C., 72 S.I. Lakshman and 73 Inspector Subbanna all speak to his taking part in the riot. There is no reason at all to disbelieve any of these witnesses and there is strong evidence against A10. He has pleaded that he went on the 7th to Satyagala near Periyapatna for purchasing tobacco and returned to Mysore on 12th,, D.W.23 Puttiah speaks to the accused having come to Satyagala to purchase tobacco from him. The story is that the tobacco was worth Rs 100/- and odd, that A10 paid him Rs 100/- on the 10th and took the receipt Exhibit D22. that he promised to pay the balance subsequently and took the tobacco. D.W.24 Channabasappa is an attestor of the receipt. Not very much value can be placed upon evidence of this sort. The payment of Rs 100/- and the taking of the receipt for the purchase of tobacco from Puttiah are not mentioned in the statement made before the Magistrate. Apart from this, even if it be true that he did go there and pirchased tobacco, the transaction finished at about 4 P.M. on Sunday 10th when the receipt was written. But the story is that he left at 9 A.M. for Mysore on Monday morningwhile D.W.24 says that he left at 2 P.M. On Monday for Periyapatna.

DW 23 says that he stayed there till next morning.

Since the transaction finished at about 4 P.M. he could ~~very~~ easily have returned by Bus from Periyapatna and there was no necessity or reason for him to stay at Satyagal f·r the night and it is very likely that he came to Mysore on Sunday evening itself. There is ample and reliable evidence in regard to his complicity. He is said to have thrown stones and ovstructed the fire engine. He will be guilty of charges I, VIII, and XIV. Four of the assessors have been of opinion that he is guilty of chaeges I, II, IV, V, VIII and XIV. One of them opines that he is guilty of charges I, II, IV and VIII, two that he is not guilty. I find him guilty of offences under Sections 147, 332/149 and 427/149 I.P.C. I convict him of those offences and acquit him of the others. I sentence him to undergo R.I. for two years for each of the offences under Sections 147, 332/49 and 427/149 I.P.C. The sentences will run concurrently.

65. A-11. Abdul Raheem.

He is 30 years of age. He keeps a beedi shop in Lashkar Mohalla. The witnesses who refer to him are P.Ws. 27 Siva Sivaprasad, P.W.37 Rangiah, P.W.60 Rayasundaram and P.W.62 Ahamad Khan. Of these P.W.60 has only identified him and P.W .62 Ahmad had made wrong identification in respect of the accused. The evidence against him is rather meagre. Further he pleads that he and A12 Md. Akbar had gone for a marriage on his sister's house which is behind the 2 old City Magistrate's Court and that they were there till early morning. D.W.1 Md. Ali says that these accused attended the marriage in his house on the 10th night and assisted him in serving food and feeding went on till about 3 A.M. Exhibit D17 is the invitation card issued by him. D.W.2 Md. Shamsuddin who is a Pesh Imam and who is the father of the bride also speaks to the presence of A11 and A12 at the marriage and the feeding that went on till after midnight. The defence evidence appears to be credible and as the prosuection-

prosecution evidence is weak, the accused will be given the benefit of doubt. All the assessors are of opinion that this accused is notguilty. Agreeing with the unanimous opinion of the assessors, I find him not guilty and acquit him of all the chafges.

66. A-12 Md. Akbar:-

He is 35 years of age. He is a cycle shop keeper in Erangere. The only witnesses that mention him are P.W .26 Sesha Iyengar, P.W.41 Javaraiya, P.W.66 Aralappa, P.W.41 Javariah is a very unreliable witness as he has stated in this Court that he actually saw one of the accused set fire to the sheds though he mentioned no such thing in the Magistrate's Court. P.W.66 Aralappa is a Roman Chatholic and may be somewhat biassed. One ofher witness P.W.69 Siddiah has peferred to this accused. But he does not know his name and is not acquainted with him. Further this witness wrongly identifies A9, and A22 in this Court and no reliance can be placed upon this identification. The evidence against this accused is very meagre. As observed above with referance to A11 this accused is said to have gone with A11 to a marriage and the defence appears to be credible. The assessors unanimously are of opinion that he is not guilty. Agreeing with the view expressed by the assessors, I find this accused Md. Akbar not guilty and acquit him.

this accused will also be given the benefit of doubt.

67. A-13. Ammer Jan:-

He is 38 years of age. He is a cycle shop keeper in Erangere. The evidece against him consists of that of P.W.26 Sesha Iyengar, P.W.41 Javariah, P.W.54 Krishnayya, P.W.63 S ubba Rao, P.W.72 Lakshman (S.I.). The evidence of P.W.41 is not credible and P.W.63 is not able toname him. The plea of the accused is that he went to Mandya with D.W.13 Hyder Khan, D.W.12 Abdul Rahim to attend a post-marriage function of his brother-in-law and returned to Mysore on the 11th evening. The plea is supported bv the evidence of D.Ws 11 and 12. D W 12 Abdul Rahim is a relies

retired revenue Official of Coorg and unconnected with the accused. He is an old man of 78 years of age and is unlikely to give false evidence to support the accused. The defence appears to be credible and the accused is given the benefit of doubt. The assessors are unanimously of opinion that he is r not guilty. Agreeing with their view I find accused 13 Ammer Ja not guilty and acquit him f all the charges.

68 Accused 14 - Khader Khan.

He is 30 years of age. He is a cycle stand contractor at Krishna Cinema and reside in Mandi Mohalla. P.W .18- Sannulla, P.W. 25 Venkoba Rao, P.W.34 Madiah, P.W.47 Anthony, P.W.75 Eriah state that they saw him participate in the riot. All of them know him well. Three of hem know his name also. There is no reason to disbelieve the prosecution evidence against him. He pleads that he was at the cycle stand at the Krishna Cinema till the second show was over and slept there night as usual. It is no doubt true that he is a contractor of the cycle stand at the Krishna Cinema, but the question whether he slept there that night is to be considered. D.W.17 who has sublet the contract to him says that he slept there that night. D.W.29 clerk of the Cinema states that it was usual for the accused to stay there till the second show was over. The second show finishes at about 12-15 or 12-30 A.M. This witness merely speaks to the practice. He had no special reason to know on the 10th if the accused stayed there till the end and if he slept there. He also admits that if the accused is unable to come somexhexx body else is deputed on his behalf to look to the cycle stand. Even granting that the second show closed at 12.15 A.M. there was time enough for accused 14 to have come to the church and to have been taken part in the rioting. The so called alibi which has been set up is not such as would militate against the case of his presence in the rioting

He is said to have thrown stones on the church and ~~priests~~ padris quarters and on the policeman and also on the fire engine. He is liable for charges I, II, IV, V and XIV. There is specific charge against him of having caused hurt to P.W.47 Anthony. As observed already there is no corroboration of this and ~~ix~~ he has to be acquitted of this charge. The assessors are of the opinion that he is not guilty. I do not agree with the opinion of the assessors and I find him guilty of offences under Section 147, 295/149, 297/149, 427/149, and 448/149 I.P.C. and I convict him thereof. I acquit him of the other charges. I sentence him to two years' R.I. for each of the offences under Section 147, 295/149, 427/149 and to one year's R.I. for each of the offences under section 297/149, 448/149. I.P.C. The sentence will run concurrently.

69. A-15. Abdul Raheem alias Jani.

He is aged 32 years. He is a petty shop-keeper and reside near Kantharaje Urs Park. The witnesses who refer to him are P.W.18, Sannulla, P.W.27 Sivaprasad, P.W.~~59~~ Malikanjamal s/wo Rayasandaram P.W.62 Ahamad Khan. Of these P.W.50 and P.W.60 merely ~~said~~ identify him and are not acquainted with him. P.W .62 names him as Sattar Khan and has not identified him in the Magistrate's Court. The evidence against him is thus weak. He pleads that on the 10th evening his marriage took place at Kannambodi that night and he was there and not in Mysore. D.W.5 Md. Usman who is a Moh Imam performed his Nika at Kannambodi. Exhibit D.19 is the entry in the Nika register. ~~Exx~~ (D.19a). is the invitation issued for the marriage. D.W.6 Safdar Hussain was the vakil of the bride and he has also signed the Nika register. He speaks to the stay of A15 at Kannambodi on the 10th night. The evidence is that these witnesses went from Mysore in the Tonga of A42 Md. Amir to Kannambodi that evening. The marriage is supported by documentary evidence and ~~ix~~ also by the evidence of respectable witnesses.

witnesses. It is very probable that A15 and A42 stayed there that night and that the witnesses returned to Mysore in the same tonga of A42 on the morning of the 11th. The prosecution evidence is weak and A15 and A42 should be given the benefit of doubt. ~~him~~ The assessors are unanimously of opinion that A15 is not guilty. I agree with ~~him~~ them and find ~~the~~ accused not guilty and acquit him of all charges.

70. Accused - 16. Abdul Aziz:-

He is 18 years of age. He is a sweets vendor near the provincial Reserve Police lines. P.W.18 Sannulla, P.W.72 Laxman (S.I). P.W.75 Eriah, state that he participated in the riot. All these six witnesses are acquainted with the accused and know by name. There is therefore no doubt about his identity. He says that he cannot see well at night, and he slept at home and did not go to the Church. He can see well in the day time. There is nothing very wrong with him and it is possible that he is somewhat short-sighted. There is no serious deffect with his eyes which would ~~have~~ made it impossible for him to go to the scene of occurrence. It is very unlikely that the Police would foist a false case against a street hawker of the sweet meats. The evidence against him is strong and there is no specific defence either. Four of the assessors are of opinion that he is not guilty and two others find him guilty of four charges and one of one charge. I cannot agree with the opinion of the majority of the assessors. The evidence against ~~his~~ accused is of six witnesses who were acquainted with him and know him by name. He is said to have been throwing stones on the fire engine and rushing into the Church. P.W.38 states that he found this accused on the northern side where the sheds were set on fire. He would be liable to charges 1,2,4,5,6,8 and 14. ~~four assessors are of opinion that he is not guilty and three that he is guilty of some charges.~~ I find him guilty of offences under Sections 147, 295/149 I.P.C. 297/149, 448/149, 332/149, 427/149 I.P.C. and 435/149 I.P.C.

71. But he is an young boy of 18 years of age and appears to be an emaciated weakling. Under these circumstances a sentence of one year's imprisonment will be enough. I find him guilty of all the offences mentioned above and sentence him to one year's R.I. for each of the offences other than the one under Section 435/149. In respect of the offences under Section 435/149 I sentence him to undergo one year's R.I. and a fine of Rs 25/- and in default to suffer one month's R.I. The substantive sentences will run concurrently.

I acquit him of the other charges.

72 Accusee 17. Abdul Rahim:-

He is a tonga driver. He resides in Para Imam Road. Only two witnesses P.W.18 and P.W.27 refer to him. The evidence against him is quite insufficient. Six of the assessors are of opinion that he is not guilty, while one considers that he is guilty of some charges. Agreeing with the majority I find him not guilty and acquit him of all the charges.

73. Accusee 18. Abdul Rahiman:-

His age is 26 years and he is a Beedi shop keeper, in Mandi Mohalla. The evidence against him consists of that of P.Ws. 26, 43, 50 and 52. One of these cannot name him while the other name him. He states that he went to Hebbadi Hundi along with other friends on the evening of 10th Jan. in the jutka of accused 38 to attend the Fateha that was performed at the house of D.W.8. He stayed there the whole of that night and returned to Mysore the next day. This is supported by the evidence of D.W.9, and D.W.10. They all speak to the stay of accused 18 and accused 38 on the 10th night at Hebbadi Hundi. It cannot be said that the prosecution evidence is in any way superior

superior to that of ~~xxidxxxx~~ defence. The two accused will have to be given to benefit of doubt. Six of the assessors are of opinion that he is not guilty while one considers that ~~the~~ he is not guilty while one considers that he is guilty of our charges. Agreeing with the majority of the assessors I find the accused not guilty and acquit him of all the charges.

3. Accused -19 Ibrahimkhan alias Dewan.

The accused is aged 45 years and he is a milk-seller in Kamani darwaja. Four witnesses namely P.W.s-30, 31, 62, 72 speak to his presence. Of them P.W.62 has made wrong identification of another accused. Much reliance cannot be placed on this identification. This accused pleads that he was staying at home on the 10th night listening to the reading of religious books. D.W.32 Md. Peer and D.W. 33 syed Mohammad speak to his staying at home that night,. The accused is an aged man having a large family and he appears to be a sober minded ~~xx~~ fellow. It is unlikely he joined in the riot and I would give him the benefit of doubt. The assessors are unanimously of opinion that he is not guilty. Agreeing with their view I find him not ~~xix~~ guilty and acquit him of all the charges.

7½. Accused-20 Yasim Sheriff alias Sunna.

He is aged 26 years and is a sepoy in the Palace infantry. There are seven witnesses for the prosecution who speak to his complicity in the riot and these are P.W.s 38. 40. 45, 62 64, 65 and 72. Except 64 and 65 all the others are acquainted with him and know him by name. P.W.65 also knows him well as he himself is a bugler in the Palace Infantry though he does not know his name. P.W.65 says that while he was passing near the church from his father-in-law's house Accused-20 caught him by the shirt. There is very strong and reliable evidence against this accused in regard to his participation in the rioting. A-20 sets up a defence that he had gone that day to Ganjam near Sreerangaparam for purchase of a cow, D-W.42 says that this accused came to him to see his cow. D.W.43 is said to ~~xxx~~ have accompanied this accused. They are said to have seen the ~~xxx~~

the cow at about 7 P.M. But still it is stated that they slept in a dilapidated 'Caradi' at night. This is not easily believable. Such a large number of carts pass between Seringaparam and Mysore and there are also Buses the fare being a few annas. The story is that they went walking and returned walking. It is highly incredible that if the transaction had finished at 7'o'clock they would have kept on there at night doing nothing. While D.W.42 says that the accused did not purchase the cow on the ground that it had a bad 'Suli' D.W.43 states that the cow was not purchased as they could not hit off the price. Apart from the descrepancy in the defence evidence, the accused was away in Ganjam the while of Sunday the 10th and returned to Mysore in the evening of the 11th only. As he is a sepoy in the palace Infantry it would have been impossible for him to go away without obtaining leave. If he had obtained leave this would have been noted in the registers of that office. Even if he had gone away without permission he would have been noted as absent without permission in the registers and further disciplinary action would have been taken against him for absenting without permission. In any case there would be some record of his absence in the office of his Battallion and no such record has been summoned. The defence evidence is entirely unreliable. The evidence against him is that he was pelting stones and rushing into the church compound pushing the constable P.W.-40. He is liable for charges I, II, IV, V, VIII and XIV. Five of the assessors are of opinion that he is guilty of the above charges and two others that he is guilty of charges I, II, IV and VIII. I find him guilty of offences under sections 147, 295/149 297/149, 448/149, 332/149 and 427/149 I.P.C. I convict him of these offences and sentence him to two years' R.I for each of the offences under Secs. 147, 295/149, 427/149 and 332/149 I.P.C. and to one year's R.I for each of the offences under sections 297/149 and 448/149. The sentences will run concurrently. I acquit A-20 of the other charges.

there is one fact which the defence cannot get over, according to the evidence

76. Accused-21 Syed Ziauddin alias Basha.

P.Ws.23, 28, 37, 41 and 72 speak to the participation of this accused in the rioting. P.W.41 is not believable inasmuch as he states that this accused set fire to a shed which is not stated in the committing Magistrate's Court,. But the other witnesses are acquainted with him and three of them know him by his name also. There is no reason to discredit the testimony of these witnesses. A-21 has set up no specific defence. He is said to have been shouting and throwing stones and brickbats bamboos on the church and the police. He would be liable for charges I, II, IV, V, VIII and XIV. Four of the assessors are of opinion that he is guilty of the above charges, two that he is guilty of charges I, II, IV and XIV only while another that he is not guilty. I find him guilty of offences under Section 147, 295/149 427/149, 448/149 and 332/149. I convict him of these offences and sentence him to two year's R.I. for each of the offence under Section 147, 295/149, 427/149 332/149 I.P.C. and to one year's R.I. for each of the offences under section 297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit accused 21 of the other charges.

77. Accused-22 Abdul Sattarkan alias Sattar.

He is a petty shop keeper in Kantharaj Urs park. Only three constables namely:- P.Ws-18, 20 and 25 speak to his connection with the rioting. There is one other parivar witness P.W.71 but he merely identifies him and does not know him. No reliance can be placed on his testimony. The prosecution evidence against this accused is rather weak. This accused states that he had gone to Araikere for the betrothel ceremony of his brother. D.W.21 who is the father of the girl betrothed and D-W-22 speak the presence of the accused at Araakere and that he stayed there that night. The defence appears reliable

reliable and the prosecution evidence weak. The accused will be given the benefit of the doubt. All the assessors consider that he is not guilty. I find him not guilty and acquit him of all the offences.

79 accused 23 Hyder Beig.

This accused is 40 years old. He is a tonga driver in Lashkar mohalla. There are 6 witnesses that speak to his complicity in the rioting and these are P.Ws.- 23, 33, 35, 50, 67 and 68. P.W.67 merely identifies him but the other five witnesses know him and there is no reason to discredit their testimony. He has no specific defence, but merely states that he was not there. A curious incident appears to have happened. Sub Inspector Ramachandran when he was going to the telephone was surrounded by a mob of Mahammadans and was belaboured in the belief that he was a christian. A-23 who was also with them and who knew the Sub Inspector as a railway Sub Inspector appears to have observed that he was a Brahmin and not a Christian. In proof of this Ramachandran had to show to the crowd his 'Yegnopavitham' and they let him off. This incident clearly shows that there can be no doubt about the identification of this accused by S.I. Ramachandran. It cannot be said that he was not a party to the rioting. In fact he was a party in the mob that assaulted Ramachandran. This very fact that these people belaboured the Sub Inspector in the belief that he was a Christian shows that they did intend to cause hurt to Christians. There is strong evidence against this accused and he is said to have been pelting stones and throwing bamboos and to have obstructed the fire-engine. He would be liable for charges I, VIII, and XIV. Four of the assessors are of opinion that he is guilty of charges I, II, IV, V, VIII and XIV, one that he is guilty of charges I only, one other that he is guilty of charges I and XIII and one considers he is not guilty. I find A-23 guilty of offences under Sec. --

Sec.147, 332/149 and 427/149. In view of the fact that he had the good sense to save the life of S.I. Ramachandran though being a party in the rioting, I consider that he might be dealt with somewhat leniently by awarding only one year's imprisonment in all. I convict him of the offences stated above and sentence him to one Year's R.I. for each of the offences under Sec. 147, 427/149 and 332/149 I.P.C. The sentences will run concurrently. I acquit A-23 of the other offences.

78 A-24 Abdul Sattarkhan.

This accused is aged 25 years and is a petty shop-keeper in Narasimharajamohalla. P.Ws.28, 32, 36, 38 40 and 58 speak to his participation in the riot. The first two are not able to name him. He has pleaded that he went to Bangalore for certain ceremonies on the 8th and returned on the 12th. The ceremonies are the 'Mukna' and 'Katna' ceremonies of the sons of D.W.25, Ex.D.23 is the invitation letter that was issued by him. The ceremonies themselves were on the 10th. The presence of the accused, at the ceremonies and in Bangaloro till the 11th is spoken to by D...25, and D.W.26 both being very respectable persons. D.W.26 is a resident of Ananthpur District and un-connected with the accused. There is no reason why he would be deposing falsely. Further D.W.27 is the land-lord of the accused and he states that he had gone to his shop for collecting the rent on the 10th and was told that A-24 had gone to Bangalore. The invitation Card also shows that the ~~xxxxxxxxxxxxxxxx~~ ceremonies did take place there place there on the 10th and it is very likely that the accused who is a first cousin of the boys concerned in the ceremonies attended the function. The defence appears to be bery reliable and I would give the benefit of doubt --

doubt to this accused. The assessors have been of the unanimous opinion that this accused is not guilty. Agreeing with them I find A-24 is not guilty ~~[illegible]~~ and acquit of all the charges.

79 A-25 Abdul Azeez.

He is aged 32 and is a cattle Dallali in Mandi Mohalla. The evidence against him is only that of P.W.27 and P.W.54.P.W.70 only identifies him. According to his evidence he was at a distance of nearly 1 furlong and half from the spot, and so it is impossible to say that he was able to identify any one during the night. This accused has pleaded that he had gone to Nagarahalli on the 10th in connection with a panchaythi regarding his brother's wife who had been taken by her father~~[illegible]~~ D.W.37. This is spoken to by D.W.37 who says that the accused stayed there that night. D.W.32 also speaks to A-25's presence there on that night. The defence appears reliable and the prosecution evidence is very deficient. I would give the benefit of ~~[illegible]~~ doubt to this accused. Six of the assessors are of opinion that he is not guilty and one considers he is guilty. Agreeing with the majority I find A-25 is not guilty and acquit him of all charges.

80 A-26 Abdul Khuddus.

A-26 Abdul Khuddus is aged 36 and is a peon in the Railway Traffic Manager's office. P.W.s21, 29. 41, 50, 52, 63, all speak to his complicity in the rioting. Even if P.W.41 is not believed, there is ample and reliable evidence against this accused. He has no specific defence. He is said to have thrown stones on the church and the Police and to have attacked the fire engine. He could be liable for charges ~~[illegible]~~ while

charges while two consider that he is not guilty. Agreeing with the majority I find him guilty of offences under Sec. 147, 295/149, 427/149,
charges I, II, IV, V, VIII and XIV. Five of the assessors are of opinion that he is guilty of the above charges while two consider that he is not guilty. Agreeing with the majority I find him guilty of offences under Sec. 147, 295/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. I convict him for these offences and sentence him to two years' R.I. for each of the offences under Sec. 147, 295/149, 427/149, and 332/149 and to one year's R.I. for each of the offences under S.297/149 and 448/149. The sentences will run concurrently. I acquit A-26 of the other charges.

81 A-27 Ameerkhan.

He is aged 24 and is a bullock cart driver. P.Ws.- 21, 32, 35, 46, 53 and 58 speak to his complicity in the riot as also P.W.70 a Parivar witness. There is very strong evidence against this accused. The witnesses most of them know him by name also and are reliable. This accused has no specific defence. He is said to have been pelting stones at the windows and doors of the church and on the police. He would therefore be liable for charges I, II, IV, V, VIII and XIV. Six of the assessors are of opinion that he is guilty of the above charges but one opines he is guilty of charge I only. I find the accused (A-27) guilty of offences under Sec. 147, 295/149, 297/149, 427/149 448/149 and 332/149 I.P.C.and I convict him of these offences I sentence him to two years' R.I. for each of the offences under Sec. 147, 295/149, 427/149, and 332/149 I.P.C. and to one year's R.I. for each of the ------- offences under Section 297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit A-27 of the other charges.

82 A-28 Ahmed Sab.

P.Ws. 30 37, 39, 59 and 63 speak to his complicity in

in the riot. Two of the witnesses are unable to name himbut they are all acquaintes with him there is no reason to discredit these witnesses. A-28 has pleaded no specific defence. He is said to have thrown stones on the church, the Qadri's quarters and the fire engine. He would be liable for charges I, II, IV, V, VIII and XIV. Four of the assessors are of opinion that he is not ~~xxk~~ guilty while three consider that he is guilty of charge I only. I do not agree with the opinion of the majority of the assessors. I find him guilty of offences under Sec. 147, /295/149, 297/149 448/149, 427/149 and 332/149 I.P.C. I convict him of these offences and sentence him to two year's R.I. for each of the offences under Sec. 147, 295/149 427/149 and 332/149 I.P.C. ~~xxxx

two years' R.I. for each of the offences under Sec.147, 295/149 /~~149~~, 427/149 I.P.C. and to one year's R.I. for each of the offences under Sec. 297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit A-29 of the other charges.

84 A-30 Dastagir Sab.

He is a beedi shop-keeper in Mandi Mohalla. The witnesses that re er to him are only three namely P.Ws. 18, 39 and 51. P.W.18 did not identify him correctly in this Court but subsequently he picked him out as one of the persons by him. But he calls him Manna Amper. There is evidently a mistake in identity. The evidence against him is very weak. He has pleaded that he and A-41 went to a Fatheha in Amerjan's house and that they were there till 4 a.m. on the 11th. This is spoken to by D.Ws. 28, 30 and 41, The prosecution evidence is not xxx very much superior to that of the defence and the accused has to be given the benefit of doubt. All the assessors are of opinion that he is not guilty. Agreeing with their opinion I find A-30 not guilty and acquit him of all charges.

25 A-31 Sab Jan.

He is aged 41 years and a horse dallali living in Lashkar Mohalla. P.W.29, P.Ws.30, 31, and 61 depose to his presence in the rioting. Of these P.W.61 is not able to name him. He pleads that his wife was very ill and was an inpatient in the K.R.Hospital since some days prior to the 10th Jan. She has four children of whom the youngest was about 8 or 9 months old at the time of the incident. He was taking his baby xx every night to the hospital to show it to the mother. On the 10th night, as the baby was crying very much he took it to the hospital at about 10 or 10-30 p.m. to show it to the mother and get it pacified. The hospital gates were locked and so he could not get admission and came back with the baby about midnight, and then stayed at home. These facts are spoken to by D.Ws.18, 19 and 20. P.W.20 is his sister and she was also in the hospital attending upon his wife. The defence appears to be true and there is no reason to discredit the evidence of

of these witnesses. As his wife was ill lying in the hospital and as he had young children including a baby at hom it is very ulikely that he would have left them alone and gone to mix up in the rioting. The evidence against him is not very strong and the defence appears to be believable. He will therefore be given the benefit of doubt. The assessors are unanimously of opinion that he is not guilty. Agreeing with their opinion I find him not guilty and acquit him of all the offences.

86 A-32 Sattar Khan.

This accused is 38 years of age and a tonga driver, in Idigm. There are six witnesses that speak to his participation in the rioting and they are P.W.s 27, 32, 43, 44, 54 and 68. Except P.Ws.32 and 68 who know him but who are not acquainted with his name, all the others know him as also his name. The evidence is strong against him and there is no reason to disbelieve the prosecution witnesses. There is no special defence pleaded by him except that he did not go there. The evidence is tht he was throwing stones at the church and was also shouting and beating with ~~xxxxx~~ bamboos. P.W.43states that this accused assisted in heaping bamboos near the door to set fire. The accused will therefore be liable for charges I, II, III, IV, V, VIII and XIV. Five of the assessors are of opinion that he is guilty of charges I, II, IV, V, VIII, and XIV while one is of opinion that he is guilty of charges I, II, IV and XIV only. One of the assessors considers that he is guilty of charge III also. Since there is evidence that he was assisting that portion of the mob which was stacking bamboos against the door to set fire to it he is guilty of ~~xxxxx~~ the offences of mischief by fire to a building which is used as a place of worship under Section 436 I.P.C read with Sec. 149 I.P.C. I find A-32 guilty of offences under Sec.147, 295/149 297/149, 448/149, 332/149, 427/149 and 436/149 I.P.C. I convict him of these offences and acquit him of all the other offences. I sentence him to two years' R.I. for each of the offences under Sec.147, 295/149, 332/149 and 427/149 and to one year's R.I. for each of the offences under Sec. 297/149 and 448/149, and to 2 years R.I. ~~xxxx

for the offences under S.436 read with 149 I.P.C. The substantive sentences will run concurrently.

87 A-33 Gulam Rasool:

This accused is aged 26 and is a bullock cart driver in Kamani Darwaja. The witnesses against him are P.Ws. 27, 35, 45 and 53. P.Ws.34 and 53 are not able to name him. His defence is that he was not in town on the 10th night and that he had gone to Kadakola on the 9th and returned to Mysore on the 12th. D.Wx 39 says that the accused had come to Kadakola to see a boy of theirs who was ill. As the boy died on Monday the accused stayed there till Tuesday and then returned to Mysore. That this accused was in Kadakola on Sunday night and slept there is spoken to by D.W.40. He is unconnected with the accused and there is no sufficient reason to disbelieve him. The prosecution evidence is weak and his defence is credible. He will be given the benefit of doubt. The assessors are of unanimous opinion that he is not guilty. Agreeing with them I find him not guilty and acquit hi of all the charges.

88 A-34. Basheer Ahmad.

This accused is 32 years of age and is a betel leaf seller in Irnagere. This accused is stated by 6 witnesses to have participated in the rioting. These witnesses are P.Ws.25, 26, 31, 32, 48 and 58. All these have known him previously. Three of them know his name and the other three are unable to name him. The evidence against him is very strong and reliable. A-34 merely pleaded that he did not go to the Church that night and that he had no witnesses. But still he examined one witness DW.241 who is his wife's maternal uncle. He states that the accused had come to his house for food at 9 or 9.30 P.M. and slept in his house till the morning. Very little reliance can be placed upon this evidence in respect of a defence which is not pleaded. Even if he had taken his food at 9 or 9.30 P.M. there, it is not impossible for him to have come to the church which is 2 fulongs from this witness's house. The evidence is that he was pelting stones at the church and the Padri's Quarters and that he obstructed the fire engine. He is liable for charges --

charges I, II, IV, V, VIII, and XIV. Four of the assessors are of opinion that he is guilty of these charges and one that he is guilty of charges I, II, and V while two others hold that is not guilty. Agreeing with the opinion of the majority of the assessors I ∅ find A-34 guilty of offences under Section 147, 295/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. I convict him of the above offences and acquit him of the other offences. I sentence him to two years' R.I. for each of the offences under Sections 147, 295/149, 332/149 and 427/149 I.P.C. and to one year's R.I. for each of the offences under Section 297/149 and 448/149 I.P.C. The sentences will run concurrently.

89. A-35 Manna Ameer:-

He is employed in a beedy factory. The evidence against him consists of that of three witnesses P.Ws.38, 66 and 75. P.W.66 is a Roman Catholic Christian and he may be biassed. The evidence against this accused is somewhat insufficient and he may be given the benefit of doubt. The assessors are of the unanimous opinion that he is not guilty. Agreeing with them I find him not guilty and acquit him of all charges.

90 A-36 Abdul Wahab.

He is a vendor of eggs. The evidence against him consists only of that of Pws. 33 and 60. The latter merely identifies him and does not know him. The evidence against him is very meagre. He states that he had gone to cook on the 10th night in one Salar Sab's house and was there till 4 A.M. on the 11th. This is spoken to by D.W.34 and D.W.35. The defence evidence seems to be better than that of the prosecution so far as this accused is concerned. He will be given the benefit of doubt. The assessors are unanimously of opinion that he is not guilty. Agreeing with their opinion I find him not guilty and acquit him of all charges.

91 A-37 Abdul Kareem:- This accused is a farrier in -

in Kamani Darwaja. It was this accused that went with his brother P.W.37 to the Mandi Police Station at about 9.15 P.M. on that eventful night to give the complaint that his brother and another boy had been taken into the church by a Christian and asked to look into the catacomb when they ran away. There are six witnesses for the prosecution to speak about his participation in the riot. Pws. 25, 28, 30, 59, 64 and 72 all state that ~~he~~ this accused was in the mob and was pelting stones. P.W.72 speaks to the fact of this accused coming to the station and also to his participation in the riot to give a complaint. The prosecution evidence is strong against this accused and there is no reason to disbelieve these witnesses. In fact this fellow appears to have been the cause of all the trouble. If the boy Md.Khasim is believed, the complaint that he carried to his brother was merely that some Christian took him into the church and asked him to look into the catacomb. The matter appears to be very trivial and there does not arise any cause for grievance or complaint on account of this matter. But still this accused appears to have grossly exaggerated the whole thing and it looks probable that he must have spread the canard that Mahammadan boys were taken into the church for being sacrificed. As regards the acts committed by him at the rioting the evidence is that he was pelting stones and brickbats at the Church and on the fire engine also. He is liable for charges I, II, IV, V, VIII and XIV. The assessors are unanimously of opinion that he is guilty of these charges. Agreeing with them I find him guilty of these offences under Sections 147, 295/149 297/149, 448/149, 332/149 and 427/149 I.P.C.. I convict thereof and sentence him to two years' R.I. for each of the offences under Sections 147, 295/149 and 427/149, and to one year's R.I. for each of the offences under Section 297/149 ~~and 448/149 and to two years' R.I. for the offence under Sec.332/149 I.P.C.~~ The sentences will run concurrently.

92 A- 38 Chote Sab:-

He is 38 years of age and is a tonga driver in

in Mandi Mohalla. The evidence against him consists of the statements of the P.Ws. 35, 36 and 42. P.W.35 does not appear to know him very well as he states that he is a bullock cart driver. A-38 has the same defence as that of A.18. The defence is that A-18 hired his tonga to go to Hebbadi Hundi on the 10th January evening and that they remained there that night. This defence has been considered in connection with A-18 and has been held to be believable. The prosecution evidence against this accused is also insufficient. I give him the benefit of doubt and agreeing with the unanimous opinion of the assessors that he is not guilty, I acquit him of all the charges.

93 A-39 Abdul Gaffor alias China.

This accused is aged 28 years and is a maker of beedies living in Mandi Mohalla. Five witnesses namely Pws. 19, 20, 24 27 and 75 speak to his part in the riot. There is no reason to disbelive their evidence. They are all acquainted with him. His defence was that he had gone to French Rocks on the 10th at 7 A.M. and returned on Monday at 11 A.M. There is no proof of this. There is reliable and satisfactory evidence against him. He is said to have been making 'galata' at the north-west corner of the church pelting stones at the church and stones and brickbats on the fire engine. He is liable for charges I, II, IV, V, VIII and XIV. Five of the assessors are of the opinion that he is guilty of these charges, one that he is guilty of charge I only and another that he is not guilty. Agreeing with the majority I find him guilty of offences under Sec. 147, 295/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. I convict hi of these offences and sentence him to two years R.I. for each of these offences and sentence him to two years R.I. for each of the offences under Sec. 147, 295/149, 332/149 and 427/149 and to one year's R.I. for each of the offences under Sections 297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit A-39 of the other charges.

94 A-40 Buden Khan alias Sabu:-

He is aged 36 and is a horse-Dallali

dallali' living in Mandi Mohalla. There are 6 witnesses who speak t his complicity in the riot. Pws. 18, 37, 44, 51, 61 and 68 state tha he was among the rioters. P.W.18 identified him in this court but n n the committing Magistrat's Court. Even excluding his evidence the is sufficiently strong evidence against this accused. All these witnesses know him. He sets up a defence that he was suffering from severe itches and was at home. D.W.15 and D.W.16 speak to this illne and to his attending the Unani Hospital. There is no evidence that he was bed-ridden or that he stayed at home that night. The prescription Exhibit D.21 said to have been given to him at the Hospital has been produced by D.W.16. This prescription is not proved to be correct. Granting it is true it only shows that he was attending the Hospital till the 7th and then again on the 13th. If the prescription is believed, it is evident that he did not attend the Hospital between 7th and 13th and this clearly shows that he could not have been suffering so sadly from itches. The defence is not believable . The prosecution evidence against him is strong and reliable. It is stated that he was rushing to get into the church compound that he was throwing stones on the church and the police and also on the fire engine and that he obstructed the fire engine. He is therefore liable for charges I, II, IV, V. VIII and XIV. Two of the assessors are of opinion that he is guilty of the above charges, two others that he is guilty of charges I, II, IV, XIV, one that he is guilty of charge I only and two others that he is not guilty. I find him guilty of offence under Sec. 147, 295/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. and convict him therof. I sentence him to two years' R.I. for each of the offences under Sections 147, 295/149, 332/149 and 427/149 and to one year's R.I. for each of the offences under Sec. 297/149, and 448/149 I.P.C. The sentences will run concurrently. I acquit him of the other charges.

95 A.42 41. Jamal Sab:-

He is a bullock cart dirver in Lashkar Mohalla. There are only two constable witnesses against him namely P.Ws.29 and 33 and one Parivar witness P.W.67. The last merely identifies him and knows

knows nothing about him. The evidence against him is very meagre. His defence is the same as that of A-30 to the effect that both of them had gone to the house of Ameer Jan for the Fateha' and stayed there that night. The defence has been considered in connection with A-30 and it has been held to be believable. He is therefore to be given the benefit of doubt. The assessors are of the unanimous opinion that he is not guilty. Agreeing with them I find him not guilty and acquit him ~~xkk~~ of all the charges.

96) A- 42 Md. Ameer.

He is a tonga driver in Lashkar Mohalla. There are three witnesses against him, namely P.Ws 32, 43 and 56. Of these P.W.32 is unable to name him and the prosecution evidence against him is deficient. His defence is the same as that of A-15 to the effect that his cart was taken on hire to go to Kannambadi for the marriage of A-15 and that they stayed there on the night of the 10th. In connection with A-15 this defence has been considered and it has been held to be credible. This accused is given the benefit of doubt. All the assessors are unanimously of opinion that he is not guilty. Agreeing with their view I find him not guilty and acquit him of all charges.

97) A-43 Md. Abbas Alias Sab Jan.

This accused is aged 26 and is a carpenter in Convent Road. There are five witnesses for the prosecution who speak against him, namely Pws. 39, 43, 45, 60 and 68. Of these P.W.68 did not identify him in the lower court, but the evidence of the other witnesses is reliable. They all know him. He has no specific defence. He merely states that he slept at home. It is stated that he was shouting and throwing stones at the church and the fire engine. P.W.43 states that A-43 was one of the party that assisted in the heaping of bamboos to set fire. He is therefore liable for charges I, II, III, IV, V, VIII and XII. Four of the

assessors are of -----

of opinion that he is guilty of charges I, II, IV, V, VIII, and XIV only, one that he is guilty of charge I only and another that he is not guilty. I find him guilty of offences under Sec.147, 295/149, 436/149, 297/149, 448/149, 332/149 and 427/149 I.P.C. I convict him thereof and sentence him to two years' R.I. for each of the offences under Sec.147, 295/149, 332/149 and 427/149 I.P.C. and to one year's R.I. for each of the offences under Sec.297/149 and 448/149 and to two years' R.I. and a fine of Rs.50/- in default one month's R.I. for the offence under Sec. 436/149 I.P.C. The substantive sentences will run concurrently. I acquit him of the other charges.

98 A-44 Md. Hussain.

This accused is a beedi shop-keeper in Lashkar Mohalla. There are four witnesses who speak to his complicity in the riot, namely P.Ws.33, 47, 49 and 71. The last witness merely identifies him. Still the evidence of the other three witnesses is reliable. They all know him as also his name. There is no specific defence but he merely states that he did not go to the church. The evidence against him is that he was throwing stones on the church and that he was beating with bamboos. He is liable therefore for charges, I, II, IV, VIII and XIV. Six of the assessors are of opinion that he is not guilty while one is of opinion that he is guilty of charges I, II, IV, V, VIII and XIV. I do not agree with the majority. I find him guilty of offences under Sec. 147, 295/149, 297/149, 427/149 and 332/149, and 448/149 I.P.C. and convict thereof. I sentence him to two years' R.I for each of the offences under Sec.147, 295/149, 427/149 and 332/149 I.P.C. and to one year's R.I. for each of the offences under Sec.297/149 and 448/149 I.P.C. The sentences will run concurrently. I acquit him of the other charges.

99 A-45 Abdul Razack.

He is aged 47 and keeps a butcher's stall. The evidence against him consists of that P.Ws.37, 61, 66 and

and 75. P.W.s 37 and 61 are not able to name him. P.W.75 names him wrongly as Rahiman sab. P.W.66 is a Roman Catholic Christian and may be biassed. The evidence against him is very weak. The assessors are of the unanimous opinion that he is not guilty. I agree with them and find him not guilty. I acquit him of all charges.

100 A-46 Abdul Sattar.

He is aged 45 years and is a shopkeeper in Imager There are six witnesses against him, namely P.W.s 28, 30, and 35, 40, 46, and 49. His defence is that he was suffering from Dysentry, that he closed his shop at 9 that night and went home and did not stir out. Two witnesses D.W.13 and D.W.14 have been examined on his behalf. D.W.14 says that he saw him at 2 a.m. His house is at some distance away from the church. It was argued that he has a mother, wife and six or seven children and that he is an aged and sober man not likely to ~~take~~ join in a riot. Though there is some prosecution evidence against this accused the defence appears to be believable, and I would give him the benefit of doubt. The assessors are of the unanimous opinion that he is not guilty. I am inclined to ~~agree with~~ defer to their opinion and find him not guilty. I acquit him of all charges.

01 All the material objects produced before court will be destroyed except M.O.8 which will be returned to P.W. 2 Father Fuega. The broken plaster of Paris lily As a large amount of the criticism and attack of the defence is directed against the conduct of the police on the night of the riot and the subsequent investigation, I have to observe after going through all the evidence and materials placed before me that it is gratifying to find that the conduct of the police officers and the men who had to work under very great strain on that night is commendable. There has been nothing reproachful or irregular in the investigation and the investigating officer has to be complimented on the promptitude and quickness with which he closed the investigation in a case of -- --

of this dimension and placed the charge sheet. I have also to add that the authorities concerned used no more force than was necessary for the dispersal of the unlawful assembly.

102 The assessors have followed the proceedings very closely and taken an itelligent interest. The diversity of opinion among them has been comparatively small. They have done their duty ungrudgingly during a continuous Session of over three weeks at great personal sacrifice. I exempt them fro service as Jurors and assessors for a period of two years from this date.

103 In conclusion I have to acknowledge the great assistance I received in the trial of this case from Mr. M. Srinivasiengar the counsel for the defence and Mr. K. Ramaswami the Public Prosecutor and express my appreciation of their precision and conciseness in the examination of witnesses and their clear analysis of the evidence while addressing arguments.

Dictated to the Stenographer and pronounced in open Court.

Sd/- C. Subrahmanya Aiyar,
Sessions Judge,
28-6-1937.

"COPY"

SESSIONS JUDGE.

GENERAL AND REVENUE SECRETARIAT

D. O. No. 78

Dated, Bangalore, 5th July 7

Law 147-36-9

With reference to your D.O. No. C. 7 dated 1st July 1937, to the Dewan, I am desired to send herewith the Law file 147-36 relating to the prosecution and conviction of the rioters in the riot that occurred in the neighbourhood of St. Philomena's Church at Mysore in January 1937.

Sir Charles Todhunter, K.C.S.I.,
Private Secretary to His Highness
the Maharaja of Mysore, Mysore.

28/7/37

Vasantha Mahal,

Mysore, 13th July 1937.

law 47-36-10

147-36-40

DEWAN'S OFFICE
14 JULY 1937
No. 32

C. 123
1 file

Law (C.B.)
14.7.37

BKR 14.7.37

Dear Mr. Kesavaiengar,

I am desired to return herewith, after perusal by His Highnes the Maharaja, the Law file 147-36 relating to the prosecution and conviction of the rioters in the riot that occurred in the neighbourhood of St. Philomena's Church at Mysore in January last, which was forwarded under cover of your d.o. letter No. P 78 of the 5th instant.

Yours sincerely,

For perusal.

379
14/7 (1st member & Dewan)

14/7

MK 14.7.37

SNK.

14-7-37

MK 15.7.37

BKR 15.7

For orders if this may be closed now.

16/7

BKR 16.7

16-7-37